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TITLE 38—UNITED STATES CODE

VETERANS' BENEFITS

AS AMENDED THROUGH DECEMBER 30, 1988
AND RELATED MATERIAL

PREPARED BY THE

COMMITTEES ON VETERANS' AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

AND

UNITED STATES SENATE

JANUARY 30, 1989

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TITLE 38—UNITED STATES CODE

FOREWORD

Title 38, United States Code, "Veterans Benefits" is a codification of laws in the field of veterans' affairs coming within the jurisdiction of the Committees on Veterans' Affairs of the House of Representatives and United States Senate. The Soldiers' and Sailors' Civil Relief Act also fall within the committees' jurisdiction and is included in this publication.

This publication was first issued September 15, 1958, and contains the exact text of title 38 as amended through December 30, 1988.

Many of the historical tables contained in previous editions of this joint committee print are not contained in this edition because of the cost of reproducing the tables. Persons and organizations who have occasion to refer to these tables should retain their copies of them. The committees will consider issuing a separate committee print containing historical information if there is sufficient demand for such information.

This edition of title 38, United States Code, has been printed with the assistance of computer technology and has been stored on computer tape. It is the committees' intention to update the code following the first session of the 101st Congress and to issue a revised joint committee print following the end of the 101st Congress.

The staff of the General Counsel of the Veterans' Administration provided essential assistance in producing this publication. The Office of Legislative Counsel of the House of Representatives also provided invaluable assistance and guidance. The committees appreciate the assistance rendered by both offices. We invite comments and corrections from the users of this publication in order to ensure that it remains as valuable as it has been in the past.

G.V. Montgomery,
Chairman, Committee on Veterans' Affairs, House of Representatives

Alan Cranston,
Chairman, Committee on Veterans' Affairs, United States Senate.

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American Revolution (1775-1784)

Participants	290,000
Deaths in service	4,000
Last veteran died Apr. 5, 1869	Age 109
Last dependent died Apr. 25, 1911	Age 90

War of 1812 (1812—1815)

Participants	287,000
Deaths in service	2,000
Last veteran died May 13, 1905	Age 105
Last dependent died Mar. 12, 1946	Age 89

Indian Wars (Approx. 1817-1898)

Participants	106,000
Deaths in service	1,000
Last veteran died June 18, 1973	Age 101

Veterans and Dependents on Compensation and Pension Rolls

Surviving spouses	6
Children	3

Mexican War (1846-1848)

Participants	79,000
Deaths in service	13,000
Last veteran died Sept. 3, 1929	Age 98
Last dependent died Nov. 1, 1962	Age 94

Civil War (1861-1865)

(Confederate)

Participants	*1,000,000
Deaths in service	*133,821
Last Confederate veteran died Mar. 16, 1958	Age 112

(Union)

Participants	2,213,000
Deaths in service	364,000
Last Union veteran died Aug. 2, 1956	Age 109

Veterans and Dependents on Compensation and Pension Rolls

Surviving spouses	10
Children	48

Spanish-American War (1898-1902)

Participants	392,000
Deaths in service	11,000
Living veterans	1

Veterans and Dependents on Compensation and Pension Rolls

Surviving spouses	3,683
Children	702
Veterans	[f] 1

World War I (1917-1918)

Participants	4,744,000
Deaths in service	116,000
Living veterans	114,000

Veterans and Dependents on Compensation and Pension Rolls

Parents	18
Surviving spouses	220,045
Children	12,188
Veterans	32,044

World War II (Sept. 16, 1940-July 25, 1947)

Participants	[a] 16,535,000
Deaths in service	406,000
Living veterans	[b] [c] 9,444,000

Veterans and Dependents on Compensation and Pension Rolls

Parents	23,821
Surviving spouses	421,460
Children	38,176
Veterans	1,407,216

Korean Conflict (June 27, 1950-Jan. 31, 1955)

Participants	[a] 6,807,000
Deaths in service	55,000
Living veterans	[b] [c] [e] 4,960,000

Veterans and Dependents on Compensation and Pension Rolls

Parents	9,108
Surviving spouses	69,740
Children	15,398
Veterans	306,538

NUMBER OF PARTICIPANTS AND DEATHS IN SERVICE DURING ALL WARS, THE KOREAN CONFLICT PERIOD, AND THE VIETNAM ERA; NUMBER OF LIVING VETERANS, AND VETERANS AND DEPENDENTS ON COMPENSATION AND PENSION ROLLS, OCTOBER 1, 1988—Continued

Vietnam Era (Aug. 5, 1964–May 7, 1975)

Participants	[c]9,200,000
Deaths in service	109,000
Living veterans	[b][e]8,277,000

Veterans and Dependents on Compensation and Pension Rolls

Parents	14,767
Surviving spouses	67,035
Children	37,287
Veterans	660,631

America's War Totals Through Oct. 1, 1988

[**] Participants	38,290,000
Deaths in service	1,081,000
Living war veterans	21,268,000
Living ex-service members	27,279,000

Total Veterans and Dependents on Compensation and Pension Rolls

Parents	[i]54,725
Surviving spouses	[j]825,701
Children	[h]117,938
Veterans	[g]2,804,426

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[*] Authoritative statistics for Confederate forces not available. Estimated 28,000 Confederate personnel died in Union prisons.

[**] Persons who served in more than one war period are counted as participants only once.

[a] Includes 1,476,000 who served in both World War II and the Korean conflict.

[b] Includes 269,000 who served in World War II, the Korean conflict, and the Vietnam era.

[c] Includes 649,000 who served in both World War II and the Korean conflict.

[d] 887,000 served in the Korean conflict and the Vietnam era.

[e] Includes 339,000 who served in both the Korean conflict and the Vietnam era.

[f] The only living Spanish-American War veteran receives benefits under World War II.

[g] Includes 397,937 peacetime veterans with service between January 31, 1955 and August 5, 1964; peacetime veterans with service beginning after May 7, 1975; 39 World War I Retired Emergency Officers and 3 Peacetime Special Acts.

[h] Includes 14,117 children of deceased peacetime veterans.

[i] Includes 7,011 parents of deceased peacetime veterans.

[j] Includes 43,242 surviving spouses of deceased peacetime veterans.

NOTE: Figures on the number of living veterans reflect final 1980 Census data and include only veterans living in the U.S. and Puerto Rico. May not add to total shown due to rounding.

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[1] Probably should be § 224.

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§ 101. Definitions

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "surviving spouse" means (except for purposes of chapter 19 of this title) a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.

(Amended P.L. 87-674, § 1; P.L. 91-24, § 16; P.L. 94-169, § 101(1)(A).)

(4)(A) The term "child" means (except for purposes of chapter 19 of this title and section 5202(b) of this title) a person who is unmarried and—

(i) who is under the age of eighteen years;

(ii) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(iii) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse before August 26, 1961, or within two years after the veteran's death; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement. A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption.

(Amended P.L. 86-195; P.L. 89-311, § 2(c)(1); P.L. 91-262, § 1; P.L. 92-540, § 407; P.L. 94-169, § 101(1)(B); P.L. 96-22, § 401; P.L. 97-295, § 4(2); P.L. 98-223, § 201.)

(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section 101(20) of this title and including the Commonwealth of the Northern Mariana Islands)—

(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section 1766 of this title) unless such person—

(I) was less than eighteen years of age at the time of adoption;

(II) is receiving one-half or more of such person's annual support from such veteran;

(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.

(Added P.L. 96-22, § 401.)

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before the veteran's entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(Amended P.L. 94-196, § 101(1)(C).)

(6) The term "Spanish-American War" (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term "World War I" (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the

date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(Amended P.L. 90-77, § 201(a); P.L. 91-588, § 9(a).)

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term "compensation" means a monthly payment made by the Administrator to a veteran because of service-connected disability, or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(Amended P.L. 94-169, § 101(1)(D).)

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a surviving spouse, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957.

(Amended P.L. 94-169, § 101(1)(E).)

(15) The term "pension" means a monthly or other periodic payment made by the Administrator to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse or child of a veteran because of the non-service-connected death of the veteran.

(Amended P.L. 94-169, § 101(1)(F); P.L. 95-588, § 301.)

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(18) The term "discharge or release" includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.

(Amended P.L. 95-126, § 3.)

(19) The term "State home" means a home established by a State (other than a possession) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans.

(Amended P.L. 88-450, § 4(c); P.L. 94-417, § 1(b).)

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. For the purpose of section 903 and chapters 34 and 35 of this title, such term also includes the Canal Zone.

(Amended P.L. 89-358, § 4(d).)

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(Amended P.L. 91-621, § 6(a)(1).)

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the Army National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law;

(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 for a period of not less than four weeks and which must be completed by the member before the member is commissioned; and

(E) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(Amended P.L. 97-306, § 113(a); P.L. 99-576, § 702(1); P.L. 100-456, § 633(c).)

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law;

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.

In the case of a member of the Army National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(Amended P.L. 91-24, § 1(a); P.L. 9-576, § 702(1); P.L. 100-456, § 633(c).)

(24) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey.

(Amended, P.L. 91-24, § 1(b); P.L. 91-621, § 6(a)(2); P.L. 97-295, § 4(95)(A).)

(26) The term "Reserve" means a member of a reserve component of one of the Armed Forces.

(Amended, P.L. 87–815, § 3.)

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;
(B) the Naval Reserve;
(C) the Marine Corps Reserve;
(D) the Air Force Reserve;
(E) the Coast Guard Reserve;
(F) the Army National Guard of the United States; and
(G) the Air National Guard of the United States.

(Amended P.L. 99–576, § 702(1).)

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.

(Added P.L. 88–450, § 4(d); amended P.L. 100–322, § 103(a).)

(29) The term "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975.

(Added P.L. 90–77, § 201(b); amended P.L. 95–202, § 309(a).)

(30) The term "Mexican border period" means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the water adjacent thereto.

(Added P.L. 91–588, § 9(b); amended P.L. 92–198, § 5(a).)

(31) The term "spouse" means a person of the opposite sex who is a wife or husband.

(Added P.L. 94–169, § 101(1)(G); amended P.L. 99–576, § 702(1).)

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(Added P.L. 97–37, § 3(a); amended P.L. 100–322, § 311.)

§ 102. Dependent parents

(a) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Administrator.

(b) Dependency of a parent shall not be denied (1) solely because of remarriage, or (2) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.

(C) For the purposes of this section, in determining monthly income the Administrator shall not consider any payments under laws administered by the Veterans' Administration because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(Amended P.L. 89-358, § 4(e); P.L. 94-432, § 402; P.L. 99-576, § 701(1).)

§ 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a person as the widow or widower of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that such person, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with the veteran for one year or more immediately before the veteran's death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow or widower of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(Amended P.L. 90-77, § 101(b); P.L. 99-576, § 701(2).)

(b) Where a surviving spouse has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(Amended P.L. 99-576, § 701(2).)

(c) In determining whether or not a person is or was the spouse of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(Amended P.L. 99-576, § 701(2).)

(d)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving

spouse of the veteran if the remarriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by the surviving spouse or collusion.

(3) If a surviving spouse ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person benefits as the surviving spouse of the veteran shall not apply.[1]

(Added P.L. 87-674, § 2; amended P.L. 91-376, § 4; P.L. 99-576, § 701(2).)

(e)(1) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court, with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by either party or collusion.

(Added P.L. 87-674, § 2; amended P.L. 93-527, § 9.)

§ 104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-three years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Administrator may approve or disapprove such educational institutions.

(Amended P.L. 91-24, § 1(c).)

(b) The Administrator may not approve an educational institution under this section unless such institution has agreed to report to the Administrator the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Administrator shall be withdrawn.
(Amended P.L. 99-576, § 701(3).)

§ 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was the result of the person's own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring the person to report and receive treatment for such disease.

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[1] Section 5 of Public Law 91-376 provides:

Sec. 5. (a) If a widow terminates a relationship or conduct which resulted in imposition of a prior restriction on payment of benefits, in the nature of inference or presumption of remarriage, or relating to open notorious adulterous cohabitation or similar conduct, she shall not be denied any benefits by the Veterans' Administration, other than insurance, solely because of such prior relationship or conduct.

(b) The effective date of an award of benefits resulting from enactment of subsection (a) of this section shall not be earlier than the date of receipt of application therefor, filed after termination of the particular relationship or conduct and after December 31, 1970.

(Amended P.L. 99–576, § 701(4).)

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service or by absenting himself or herself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

(Amended P.L. 99–576, § 701(4).)

(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Veterans' Administration, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.

(Added P.L. 100–689, § 109.)

§ 106. Certain service deemed to be active service

(a)(1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under subchapter I of chapter 81 of title 5 must elect which benefit she will receive.

(Amended P.L. 97–295, § 4(3).)

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of the person's local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(Amended P.L. 99-576, § 701(5).)

(c) For the purposes of this title, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for that individual to proceed to that individual's home by the most direct route, and in any event that individual shall be deemed to have continued on active duty until midnight of the date of such discharge or release.

(Amended P.L. 87-102, § 1; P.L. 99-576, § 701(5).)

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not such individual was disabled or died from injury so incurred, the Administrator shall take into account the hour on which such individual began so to proceed or to return; the hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty; the method of travel employed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(Amended P.L. 88-616; P.L. 99-576, § 701(5).)

(e) Each person who has incurred a disability as a result of an injury or disease described in subsection (b) shall be entitled to the same rights, privileges, and benefits under title 5 as a preference eligible described in section 2108(3)(C) of title 5.

(Added P.L. 89-311, § 5; amended P.L. 97-295, § 4(3).)

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) contracts of National Service Life Insurance entered into before February 18, 1946;

(2) chapter 10 of title 37; and

(3) chapters 11, 13 (except section 412(a)), and 23 of this title.

Payments under such chapters shall be made at a rate in pesos as is equivalent to $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to $0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that such member's service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(Amended P.L. 87-268, § 1(b); P.L. 89-641, § 2(a); P.L. 97-295, § 4(4); P.L. 99-576, § 701(6).)

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Veterans' Administration except—

(1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 722 of this title; and

(2) chapters 11 and 13 (except section 412(a)) of this title.

Payments under such chapters shall be made at a rate in pesos as is equivalent to $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to $0.50 for each dollar.

(Amended P.L. 87-268, § 1(b); P.L. 89-641, § 2(a).)

§ 108. Seven-year absence presumption of death

(a) No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Veterans' Administration.

(b) If evidence satisfactory to the Administrator is submitted establishing the continued and unexplained absence of any individual from that individual's home and family for seven or more years, and establishing that after diligent search no evidence of that individual's existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

(Amended P.L. 99-576, § 701(7).)

(c) Except in a suit brought pursuant to section 784 of this title, the finding of death made by the Administrator shall be final and conclusive.

§ 109. Benefits for discharged members of allied forces

(a)(1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Veterans' Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans' Administration from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces such person served.

(Amended P.L. 99–576, § 701(8).)

(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

(2) In order to assist the Administrator in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

(Added P.L. 94-491.)

§ 110. Preservation of disability ratings

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above evaluation for twenty or more years for compensation purposes under laws administered by the Veterans' Administration shall not thereafter be rated at less than such evaluation, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes.

(Amended P.L. 87-825, § 6; P.L. 88-445; P.L. 91-32.)

§ 111. Payments or allowances for beneficiary travel

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(Amended P.L. 86-590; P.L. 89-358, § 4(g); P.L. 94-581, § 101(1).)

(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

(B) A veteran with a service-connected disability rated at 30 percent or more.

(C) A veteran receiving pension under section 521 of this title.

(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

(B) In the case of travel by a person to or from the Veterans' Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A),(B),(C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph.

(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.

(Added P.L. 100-322, § 108(a).)

(d) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) The mileage allowance authorized by subsection (a) of this section.

(2) Actual local travel expenses.

(3) The expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(Amended P.L. 89-455; P.L. 100-322, § 108(a),(d).)

(e) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(Amended P.L. 100-322, § 108(a).)

(f) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

(Amended P.L. 100-322, § 108(a).)

(g)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, pursuant to regulations which the Administrator shall prescribe, to be unable to defray the expenses of such travel (except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates or adjusting amounts under this section and not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates

and amounts the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

(Added P.L. 94-581, § 101(2); amended P.L. 96-151, § 201(a); P.L. 97-295, § 4(5); P.L. 100-322, § 108(a),(c).)

(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.

(Added P.L. 100-322, § 108(b).)

§ 112. Presidential memorial certificate program

(a) At the request of the President the Administrator may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the veteran's service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

(Added P.L. 89-88.)

(b) For the purpose of this section an "eligible recipient" means the next of kin, a relative or friend upon request, or an authorized service representative acting on behalf of such relative or friend.

(Added P.L. 89-88.)

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected disabilities.

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities.

(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.

(Amended P.L. 100–198, § 12(a); P.L. 100–322, § 411(b).)

(b) The following accounts of the Veterans' Administration shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) The following life insurance accounts:

(A) The National Service Life Insurance Fund authorized by section 720 of this title.

(B) The Service-Disabled Veterans Insurance Fund authorized by section 722 of this title.

(C) The Veterans Special Life Insurance Fund authorized by section 723 of this title.

(D) The Veterans Reopened Insurance Fund authorized by section 725 of this title.

(E) The United States Government Life Insurance Fund authorized by section 755 of this title.

(F) The Veterans Insurance and Indemnity appropriation authorized by section 719 of this title.

(2) The following revolving fund accounts:

(A) The Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund established by section 618(c) of this title.

(B) The Veterans' Canteen Service revolving fund authorized by section 4204 of this title.

(c)(1) A benefit under section 901, 902, 903, 906, or 908 of this title that is subject to reduction under a sequestration order or sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect on the date of the death of the veteran concerned.

(2) A benefit paid to, or on behalf of, an eligible veteran for pursuit of a program of education or training under chapter 30, 31, 34, 35, or 36 of this title that is subject to a sequestration order or a sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect during the period of education or training for which the benefit is paid.

(3) In implementation of a sequestration order or law with respect to each account from which a benefit described in paragraph (1) or (2) of this subsection is paid (including the making of determinations of the amounts by which such benefits are to be reduced), the total of the amounts (as estimated by the Administrator after consultation with the Director of the Congressional Budget Office) by which payments of such benefit will be reduced by reason of such paragraph after the last day of the period during which such

order or law is in effect shall be deemed to be additional reductions in the payments of such benefit made, and in new budget authority for such payments, during such period.

(Amended P.L. 100–198, § 12(a).

(d) In computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a report of the Director of the Office of Management and Budget, or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6) of such Act) for any of the programs listed in subsection (a) of this section.

(Amended P.L. 100–322, § 411(c).)

(e) This section applies without regard to any other provision of law (whether enacted before, on, or after the date of the enactment of this section) unless such Act expressly provides that it is enacted as a limitation to this section.

(Amended P.L. 100–198, § 12(a).)

(f) For the purposes of this section:

(1) The term "sequestration" means a reduction in spending authority and loan guarantee commitments generally throughout the Government under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

(2) The term "sequestration law" means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

(3) The term "sequestration order" means an order of the President issued under part C of such Act.

(Added P.L. 99–576, § 601(a); amended P.L. 100–198, § 12(a).)

§ 114. Multiyear procurement for certain medical items

(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

(A) reducing costs;

(B) achieving economies in contract administration or in any other Veterans' Administration activities;

(C) increasing quality of performance by or service from the contractors; or

(D) encouraging effective competition.

(3) During the proposed contract period—

(A) there will be a continuing or recurring need for the supplies or services being procured;

(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

(C) the specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Administrator shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term "appropriations" has the meaning given that term in section 1511 of title 31.

(2) The term "cancel" or "cancellation" refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

(3) The term "multiyear contract" means a contract which by its term is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(4) The term "nonrecurring, unrecovered costs" means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

(Added P.L. 100-322, § 404(a).)

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

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SUBCHAPTER I—VETERANS' ADMINISTRATION

§ 201. Veterans' Administration an independent agency

The Veterans' Administration is an independent establishment in the executive branch of the Government, especially created for or concerned in the administration of laws relating to the relief and other benefits provided by law for veterans, their dependents, and their beneficiaries.

§ 202. Seal of the Veterans' Administration

The seal of the Veterans' Administration shall be judicially noticed. Copies of any public documents, records, or papers belonging to or in the files of the Veterans' Administration, when authenticated by the seal and certified by the Administrator or by any employee of the Veterans' Administration to whom proper authority shall have been delegated in writing by the Administrator, shall be evidence equal with the originals thereof.

§ 203. Availability of appropriations

(a) Any funds appropriated to the Veterans' Administration may, to the extent provided in this title or an appropriations Act, remain available until expended.

(Added P.L. 94-424, § 2(a); amended P.L. 97-258, § 2(j)(1).)

(b) Any funds appropriated to the Veterans' Administration may be used for a settlement of more than $1,000,000 on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is provided for specifically in an appropriation law.

(Added P.L. 97-258, § 2(j)(2); amended P.L. 98-160, § 702.)

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

§ 210. Appointment and general authority of Administrator; Deputy Administrator

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. The Administrator is appointed by the President, by and with the advice and consent of the Senate.

(Amended P.L. 88-426, § 305(15); P.L. 99-576, § 701(9).)

(b)(1) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, the Administrator may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(2)(A) The Administrator may not in any fiscal year implement an administrative reorganization described in subparagraph (B) of this paragraph unless the Administrator first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. Any such report shall be submitted not later than the day on which the President, pursuant to section 1105 of title 31, submits to the Congress the Budget for the fiscal year in which the administrative reorganization is to be implemented. No action to carry out such reorganization may be taken after the submission of such report until the first day of such fiscal year.

(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

(I) by 10 percent or more, or

(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

(I) by 25 percent or more, or

(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.

(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

(i) by 10 percent or more, or

(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.

(D) For the purposes of this paragraph—

(i) The term "administrative reorganization" means a consolidation, elimination, abolition, or redistribution of functions under the authority granted the Administrator under the second sentence of paragraph (1) of this subsection.

(ii) The term "covered Central Office unit" means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

(iii) The term "covered field office or facility" means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic.

(iv) The term "detailed plan and justification" means, with respect to an administrative reorganization, a written report which, at a minimum—

(I) specifies the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished;

(II) identifies any existing or planned office or facility at which the number of employees is to be increased and specifies the number and responsibilities of the additional employees at each such office or facility;

(III) describes the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subparagraph (A) of this paragraph;

(IV) explains the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

(V) describes the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Veterans' Administration not directly affected by the reorganization); and

(VI) provides estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.

(3)(A) The Administrator may not implement a grade reduction described in subparagraph (B) of this paragraph unless the Administrator first submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a detailed plan for such reduction and a detailed justification for the plan. Such report shall include a determination by the Administrator (together with data supporting such determination) that, in the personnel area concerned, the Veterans' Administration has a disproportionate number of employees at the salary grade or grades selected for reduction in comparison to the number of such employees at the salary levels involved who perform comparable functions in other departments and agencies of the Federal Government and in non-Federal entities. Any grade reduction described in such report may not take effect until the end of a period of 90 calendar days (not including any day on which either House of Congress is not in session) after the report is received by the committees.

(B) A grade reduction referred to in subparagraph (A) of this paragraph is a systematic reduction, for the purpose of reducing the average salary cost for Veterans' Administration employees described in subparagraph (C) of this paragraph, in the number of such Veterans' Administration employees at a specific grade level.

(C) The employees referred to in subparagraph (B) of this paragraph are—

(i) health-care personnel who are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services;

(ii) individuals who meet the definition of professional employee as set forth in section 7103(a)(15) of title 5; and

(iii) individuals who are employed as computer specialists.

(D) Not later than the forty-fifth day after the Administrator submits a report under subparagraph (A) of this paragraph, the Comptroller General shall submit to such Committees a report on the Administrator's compliance with such subparagraph. The Comptroller General shall include in the report the Comptroller General's opinion as to the accuracy of the Administrator's determination (and of the data supporting such determination) made under such subparagraph.

(E) In the case of Veterans' Administration employees not described in subparagraph (C) of paragraph (3), the Administrator may not in any fiscal year implement a systematic reduction for the purpose of reducing the average salary cost for such Veterans' Administration employees that will result in a reduction in the number of such Veterans' Administration employees at any specific grade level at a rate greater than the rate of the reductions systematically being made in the numbers of employees at such grade level in all other agencies and departments of the Federal Government combined.

(Amended P.L. 97-66, § 601(a); P.L. 97-452, § 2(1); P.L. 99-166, § 403; P.L. 99-576, §§ 501, 701(9); P.L. 100-527, § 15(a).)

(c)(1) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards. Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.

(2) If the Administrator determines that benefits administered by the Veterans' Administration have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Administrator is authorized to provide such relief on account of such error as the Administrator determines equitable, including the payment of moneys to any person whom the Administrator determines equitably entitled thereto.

(3)(A) If the Administrator determines that any veteran, surviving spouse, child of a veteran, or other person, has suffered loss as a consequence of reliance upon a determination by the Veterans'

Administration of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Administrator is authorized to provide such relief on account of such error as the Administrator determines equitable, including the payment of moneys to any person whom the Administrator determines equitably entitled thereto.

(B) The Administrator shall submit an annual report to the Congress on January 1, 1973, and each succeeding year containing a brief summary, including a statement as to the disposition of each case recommended to the Administrator for equitable relief under this paragraph.

(Amended P.L. 89-785, § 301; P.L. 92-328, § 201; P.L. 95-202, § 301; P.L. 99-576, § 701(9).)

(d) There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(Added P.L. 89-361, § 1(a); amended P.L. 96-22, § 502(a).)

§ 211. Decisions by Administrator; opinions of Attorney General

(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

(2) The second sentence of paragraph (1) of this subsection does not apply to—

(A) matters subject to section 223 of this title;
(B) matters covered by sections 775 and 784 of this title;
(C) matters arising under chapter 37 of this title; and
(D) matters covered by chapter 72 of this title.

(Amended P.L. 89-214, § 1(b); P.L. 89-358, § 4(h); P.L. 91-376, § 8(a); P.L. 100-687, § 101(a).)

(b) The Administrator may require the opinion of the Attorney General on any question of law arising in the administration of the Veterans' Administration.

§ 212. Delegation of authority and assignment of duties

(a) The Administrator may assign duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

(Amended P.L. 89-361, § 2; P.L. 99-576, § 701(10).)

(b) There shall be included on the technical and administrative staff of the Administrator such staff officers, experts, inspectors, and assistants (including legal assistants), as the Administrator may prescribe.

§ 213. Contracts and personal services

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as the Administrator may deem practicable. The Administrator may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in the Administrator's judgment, such arrangements are in the interest of efficiency or economy.

(Amended P.L. 89-785, § 302; P.L. 91-24, § 2(c); P.L. 99-576, § 701(11).)

§ 214. Reports to the Congress

The Administrator shall make annually, at the close of each fiscal year, a report in writing to the Congress, giving an account of all moneys received and disbursed by the Veterans' Administration, describing the work done, and stating the activities of the Veterans' Administration for such fiscal year.

§ 215. Publication of laws relating to veterans

The Administrator may compile and publish all Federal laws relating to veterans' relief, including such laws as are administered by the Veterans' Administration as well as by other agencies of the Government, in such form as the Administrator deems advisable for the purpose of making currently available in convenient form for the use of the Veterans' Administration and full-time representatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief. The Administrator may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation. The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Administrator.

(Amended P.L. 99-576, § 701(10).)

§ 216. Assistance to certain rehabilitation activities

(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

(1) the activities are available to disabled veterans on a national basis; and

(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name "Veterans' Administration" by—

(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

(2) The use of such seal or name of any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if-

(A) the Administrator has approved the advertisement; and

(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.

(Added P.L. 100-322, § 132(a).)

§ 217. Studies of rehabilitation of disabled persons

(a) The Administrator may make or have made studies, investigations, and reports relative to the rehabilitation of disabled persons, the relative abilities, aptitudes, and capacities of the several groups of the variously handicapped, and how their potentialities can best be developed and their services best utilized in gainful and suitable employment including the rehabilitation programs of foreign nations.

(b) In carrying out this section, the Administrator may cooperate with such public and private agencies as the Administrator may deem advisable, and may employ consultants who shall receive a reasonable per diem, as prescribed by the Administrator, for each day actually employed, plus necessary travel and other expenses.

(Amended P.L. 99-576. § 701(10).)

§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

(a)(1) The Administrator shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under control of the Administrator of General Services (hereinafter in this section referred to as "Veterans' Administration property").

(2) Such regulations shall include—

(A) rules for conduct on Veterans' Administration property; and

(B) the penalties, within the limits specified in paragraph (3) of this subsection, for violations of such rules.

(3) Whoever violates any rule prescribed under paragraph (2)(A) of this subsection shall be fined not more than $500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under this subsection), or both.

(4) The rules prescribed under clause (A) of paragraph (2) of this subsection, together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

(5) The Administrator shall consult with the Attorney General before prescribing regulations under this subsection.

(Added P.L. 93-43, § 4(a); amended P.L. 98-528, § 101(a)(1).)

(b)(1)(A) Veterans' Administration employees who are Veterans' Administration police officers shall, with respect to acts occurring on Veterans' Administration property, enforce—

(i) Federal laws;

(ii) the rules prescribed under subsection (a)(2)(A) of this section; and

(iii) subject to subparagraph (B) of this paragraph, traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Veterans' Administration property is located.

(B) A law described in clause (iii) of subparagraph (A) of this paragraph may be enforced under such clause only as authorized by an express grant of authority under applicable State or local law. Any such enforcement shall be by the issuance of a citation for violation of such law.

(C) Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of a Federal law or any rule prescribed under subsection (a)(2)(A) of this section.

(2) The Administrator shall prescribe regulations with respect to Veterans' Administration police officers. Such regulations shall include—

(A) policies with respect to the exercise by Veterans' Administration police officers of the enforcement and arrest authorities provided by paragraph (1) of this subsection;

(B) the scope and duration of training that is required for Veterans' Administration police officers, with particular emphasis on dealing with situations involving patients; and

(C) rules limiting the carrying and use of weapons by Veterans' Administration police officers.

(3) The Administrator shall consult with the Attorney General before prescribing regulations under clause (A) of paragraph (2) of this subsection.

(4) Rates of basic pay for Veterans' Administration police officers may be increased by the Administrator under section 4107(g) of this title.

(Added P.L. 93-43, § 4(a); amended P.L. 98-528, § 101(a)(1); P.L. 99-576, § 211.)

(c)(1) The Administrator may pay an allowance under this subsection for the purchase of uniforms to any Veterans' Administration police officer who is required to wear a prescribed uniform in the performance of official duties.

(2) The amount of the allowance that the Administrator may pay under this subsection—

(A) may be based on estimated average costs or actual costs;

(B) may vary by geographic regions; and

(C) except as provided in paragraph (3) of this paragraph, may not exceed $200 in a fiscal year for any police officer.

(3)(A) The amount of an allowance under this subsection may be increased to an amount up to $400 for not more than one fiscal year in the case of any Veterans' Administration police officer. In the case of a person who is appointed as a Veterans' Administration police officer on or after the date on which the Administrator initially exercises the authority granted by this paragraph, an allowance in an amount established under this paragraph shall be paid at the beginning of such person's employment as such an officer. In the case of any other Veterans' Administration police officer, an allowance in an amount established under this paragraph shall be paid upon the request of the officer.

(B) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this paragraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the twelve-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such an allowance, as the case may be.

(4) An allowance may not be paid to a Veterans' Administration police officer under this subsection and under section 5901 of title 5 for the same fiscal year.

(Added P.L. 98-528, § 101(a)(1).)

(d) The Administrator shall furnish Veterans' Administration police officers with such weapons and related equipment as the Administrator determines to be necessary and appropriate.

(Added P.L. 98-528, § 101(a)(1).)

(e) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.

(Added P.L. 98-528, § 101(a)(1).)

§ 219. Evaluation and data collection

(a) The Administrator, pursuant to general standards which the Administrator shall prescribe in regulations, shall measure and evaluate on a continuing basis the impact of all programs authorized under this title, in order to determine their effectiveness in achieving stated goals in general, and in achieving such goals in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Such information as the Administrator may deem necessary for purposes of such evaluations shall be made available to the Administrator, upon request, by all departments, agencies, and instrumentalities of the executive branch.

(Added P.L. 93-508, § 213; amended P.L. 99-576, § 701(12).)

(b) In carrying out this section, the Administrator shall collect, collate, and analyze on a continuing basis full statistical data regarding participation (including the duration thereof), provision of services, categories of beneficiaries, planning and construction of facilities, acquisition of real property, proposed excessing of land, accretion and attrition of personnel, and categorized expenditures attributable thereto, under all programs carried out under this title.

(Added P.L. 93-508, § 213.)

(c) The Administrator shall make available to the public and on a regular basis provide to the appropriate committees of the Congress copies of all completed evaluative research studies and summaries of evaluations of program impact and effectiveness carried out, and tabulations and analyses of all data collected, under this section.

(Added P.L. 93-508, § 213.)

§ 220. Coordination and promotion of other programs affecting veterans and their dependents

(a) The Administrator shall seek to achieve the maximum feasible effectiveness, coordination, and interrelationship of services among all programs and activities affecting veterans and their dependents carried out by and under all other departments, agencies, and instrumentalities of the executive branch and shall seek to achieve the maximum feasible coordination of such programs with programs carried out under this title, and shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference for veterans.

(Added P.L. 93-508, § 213; amended P.L. 96-466, § 701(a); P.L. 98-528, § 106(a).)

(b) The Administrator shall seek to achieve the effective coordination of the provision, under laws administered by the Veterans' Administration, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Administrator shall place special emphasis on veterans who are sixty-five years of age or older.

(Added P.L. 98-528, § 106(a).)

§ 221. Advisory Committee on Former Prisoners of War

(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

(A) appropriate representatives of veterans who are former prisoners of war;

(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

(Added P.L. 97-37, § 2(a).)

(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(Added P.L. 97-37, § 2(a).)

(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.

(Added P.L. 97-37, § 2(a).)

§ 222. Advisory Committee on Women Veterans

(a) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as "the Committee").

(Added P.L. 98-160, § 301(a).)

(b)(1)(A) The Committee shall consist of members appointed by the Administrator from the general public, including—

(i) representatives of women veterans;

(ii) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the gender-specific health-care needs of women; and

(iii) representatives of both female and male veterans with service-connected disabilities, including at least one female veteran with a service-connected disability and at least one male veteran with a service-connected disability.

(B) The Committee shall include, as ex officio members—

(i) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(ii) the Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary after consultation with the Defense Advisory Committee on Women in the Services); and

(iii) the Chief Medical Director and Chief Benefits Director, or their designees.

(C) The Administrator may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

(2) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that a term of service of any such member may not exceed 3 years. The Administrator may reappoint any such member for additional terms of service.

(c) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to—

(1) the administration of benefits by the Veterans' Administration for women veterans;

(2) reports and studies pertaining to women veterans; and

(3) the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Veterans' Administration.

(d)(1) Not later than July 1, 1984, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to women veterans. Each such report shall contain (A) an assessment of the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Veterans' Administration, (B) a review of the programs and activities of the Veterans' Administration designed to meet such needs, and (C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate. Within 60 days after receiving each such report, the Administrator shall submit to the Congress a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

(2) The Committee may submit to the Administrator such other reports and recommendations as the Committee considers appropriate.

(3) The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted pursuant to such section.

(Added P.L. 98-160, § 301(a).)

§ 223. Administrative settlement of tort claims

(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

(b) For purposes of this subsection, the term "settle", with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

(Added P.L. 100-322, § 203(b).

§ 223. Rulemaking: procedures and judicial review [1]

(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall ensure that subparagraphs (C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

(b) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Administrator.

(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.

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[1] Probably should be § 224.

(Added P.L. 100-687, § 102(a).)

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

§ 230. Central and regional offices

(a) The Central Office of the Veterans' Administration shall be in the District of Columbia. The Administrator may establish such regional offices and such other fieldoffices within the United States, its Territories, Commonwealths, and possessions, as the Administrator deems necessary.

(Amended P.L. 99-576, § 701(13).)

(b) The Administrator may exercise authority under this section in territory of the Republic of the Philippines until September 30, 1991.

(Amended P.L. 86-103; P.L. 91-338; P.L. 93-82, § 401; P.L. 95-520, § 2; P.L. 96-385, § 501; P.L. 97-295, § 4(6); P.L. 99-166, § 402; P.L. 100-689, § 501(a).)

§ 231. Placement of employees in military installations

The Administrator may place officers and employees of the Veterans' Administration in such Army, Navy, and Air Force installations as may be deemed advisable for the purpose of adjudicating disability claims of, and giving aid and advice to, members of the Armed Forces who are about to be discharged or released from active military, naval, or air service.

[§ 232. Repealed P.L. 91-24, § 2(p).]

§ 233. Employees apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees

(a) The Administrator, subject to such limitations as the Administrator may prescribe, may—

(1) furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties;

(2) transport children of Veterans' Administration employees located at isolated stations to and from school in available Government-owned automotive equipment;

(3) provide recreational facilities, supplies, and equipment for the use of patients in hospitals, and employees in isolated installations;

(4) provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures and other visual educational information and descriptive material; and

(5) reimburse employees for the cost of repairing or replacing their personal property damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of their official duties.

For the purposes of paragraph (4) of this subsection, the Administrator may purchase or rent equipment.

(Amended P.L. 87–574, § 1; P.L. 99–576, §§ 701(14), 702(2).)

(b) The Administrator, upon determining that an emergency situation exists and that such action is necessary for the effective conduct of the affairs of the Veterans' Administration, may utilize Government-owned, or leased, vehicles to transport employees to and from their place of employment and the nearest adequate public transportation, or, if such public transportation is either unavailable or not feasible to use, to and from their place of employment and their home. The Administrator shall establish reasonable rates to cover the cost of the service rendered, and all proceeds collected therefrom shall be applied to the applicable appropriation.

(Added P.L. 89–785, § 303(a); amended P.L. 99–576, § 701(14).)

§ 234. Telephone service for medical officers and facility directors

The Administrator may pay for official telephone service and rental in the field whenever incurred in case of official telephones for nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and medical officers of the Veterans' Administration where such telephones are installed in private residences or private apartments or quarters, when authorized under regulations established by the Administrator.

(Amended P.L. 93–82, § 402(a), (c).)

§ 235. Benefits to employees at overseas offices who are United States citizens

(a) The Administrator may, under such rules and regulations as may be prescribed by the President or the President's designee, provide to personnel of the Veterans' Administration who are United States citizens and are assigned by the Administrator to the Veterans' Administration offices in the Republic of the Philippines allowances and benefits similar to those provided by the following provisions of law:

(1) Section 905 of the Foreign Service Act of 1980 (relating to allowances to provide for the proper representation of the United States).

(2) Sections 901(1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980 (relating to travel expenses).

(3) Section 901(13) of the Foreign Service Act of 1980 (relating to transportation of automobiles).

(4) Section 903 of the Foreign Service Act of 1980 (relating to the return of personnel to the United States on leave of absence).

(5) Section 904(d) of the Foreign Service Act of 1980 (relating to payments by the United States of expenses for treating illness or injury of officers or employees and dependents requiring hospitalization).

(6) Section 5724a(a)(3) of title 5 (relating to subsistence expenses for 30 days in connection with the return to the United States of the employee and such employee's immediate family).

(7) Section 5724a(a)(4) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).

(Amended P.L. 99-576, §§ 701(15), 702(3).)

(b) The authority in subsection (a) of this section supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Veterans' Administration provided by title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)

(Added P.L. 86-116; amended P.L. 87-815, § 6; P.L. 89-300, § 1(c); P.L. 96-22, § 503(b)(1), (2); P.L. 96-465, § 2206(g); P.L. 99-576, § 702(3).)

§ 236. Administrative settlement of tort claims arising in foreign countries

The Administrator may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Veterans' Administration operations abroad. A claim may not be allowed under this section unless it is presented in writing to the Administrator or the Administrator's designee within two years after the claim accrues.

(Added P.L. 89-300, § 1(a); amended P.L. 99-576, § 701(16).)

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

§ 240. Purpose; definitions

(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of insuring that all veterans, especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Veterans' Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

(Added P.L. 91-219, § 214(a); amended P.L. 92-540, § 410(a).)

(b) For the purposes of this subchapter, (1) the term "other governmental programs" shall include all programs under State or local laws as well as all programs under Federal law other than those authorized by this title, and (2) the term "eligible dependent" means an "eligible person" as defined in section 1701(a)(1) of this title.

(Added P.L. 91-219, § 214(a).)

§ 241. Outreach services

The Administrator shall provide the following outreach services in carrying out the purposes of this subchapter (including the provision, to the maximum feasible extent, of such services, in areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, in the principal language of such persons):

(1) The Administrator shall by letter advise each veteran at the time of the veteran's discharge or release from active military, naval, or air service, or as soon as possible thereafter, of all benefits and services under laws administered by the Veterans' Administration for which the veteran may be eligible. In carrying out this paragraph, the Administrator shall insure, through the utilization of veteran-student services under section 1685 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release.

(2) The Administrator shall distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which the Administrator determines would be beneficial to veterans.

(3) The Administrator shall provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents in respect to paragraphs (1) and (2) of this section and in the preparation and presentation of claims under laws administered by the Veterans' Administration.

(Added P.L. 91-219, § 214(a); amended P.L. 92-540, § 410(b); P.L. 93-508, § 214(1), (2); P.L. 99-576, §§ 701(17), 702(4).)

§ 242. Veterans assistance offices

(a) The Administrator shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and the Commonwealth of Puerto Rico, as the Administrator determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographical distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services), and the necessity of providing appropriate outreach services in less populated areas.

(Added P.L. 91-219, § 214(a); amended P.L. 99-576, § 701(18).)

(b) The Administrator shall establish and carry out all possible programs and services, including special telephone facilities, as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

(Added P.L. 91–219, § 214(a); amended P.L. 93–508, § 214(3).)

§ 243. Outstationing of counseling and outreach personnel

The Administrator may station employees of the Veterans' Administration at locations other than Veterans' Administration offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.

(Added P.L. 93–508; amended P.L. 97–205, § 4(7); P.L. 97–306, § 201(a).)

§ 244. Utilization of other agencies

In carrying out the purposes of this subchapter, the Administrator shall—

(1) arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, to include where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Veterans' Administration;

(2) in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title;

(3) cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization;

(4) where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization;

(5) at the Administrator's discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services; and

(6) conduct and provide for studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

(Added P.L. 91–219, § 214(a); amended P.L. 93–508, § 214(5); P.L. 96–466, § 501; P.L. 99–576, § 701(19).)

§ 245. Report to Congress

The Administrator shall include in the annual report to the Congress required by section 214 of this title a report on the activities carried out under this subchapter, each report to include an appraisal of the effectiveness of the programs authorized herein and recommendations for the improvement or more effective administration of such programs.

(Added P.L. 91–219, § 214(a).)

§ 246. Veterans cost-of-instruction payments to institutions of higher learning[1]

(a)(1) During the period beginning on July 1, 1972, and ending on September 30, 1979, each institution of higher learning shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of this title or veterans receiving educational assistance under chapter 34 of this title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

(i) 110 percent of the number of such recipients who were in attendance at such institution during the preceding academic year, or

(ii) 10 percent of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a percent of such undergraduate students which is less than such percent for the preceding academic year; and

(B) the number of such persons is at least 25.

(2) During the period specified in paragraph (1) of this subsection, each institution which has qualified for a payment under this section for any fiscal year shall be entitled during the succeeding year, notwithstanding such paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under such paragraph (1) during the preceding academic year, whichever is the lesser. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under such paragraph (1) during the preceding fiscal year.

(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

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[1] Section 310(b) of Public Law 95–202 provides:

"(b) Effective on the date on which the Commissioner of Education transfers to the Administrator of Veterans' Affairs, under authority of subsection (a) of this section, all functions, powers, and duties assigned to the Commissioner under section 420 of the Higher Education Act of 1965 such section is superceded and chapter 3 of title 38, United States Code, is amended by . . . [inserting section 246, as above]."

No such transfer occurred.

(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher learning during the same academic year for which the determination is made bears to the number of such recipients in all institutions of higher learning for the first such academic year; or

(B) in the event that clause (A) of this paragraph is not satisfied, the Administrator determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.

(Added P.L. 95-202, § 3101(b); amended P.L. 95-336, § 6(b); P.L. 97-295, § 4(8)(A).)

(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each veteran receiving vocational rehabilitation under chapter 31 of this title, or educational assistance under chapter 34 of this title, who is in attendance at such institution as an undergraduate student during such year; and

(B) in addition, $150, except in the case of a veteran on behalf of whom the institution has received a payment in excess of $150 under section 419 of the Higher Education Act of 1965 (20 U.S.C. 1070e) for each veteran who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of this title and who is in attendance at such institution as an undergraduate student during such year.

(2) In any case where a veteran on behalf of whom a payment is made under this section is enrolled in an institution on less than a full-time basis, the amount of the payment on behalf of such veteran shall be reduced in proportion to the degree to which such veteran is not enrolled on a full-time basis.

(Added P.L. 95-202, § 310(b).)

(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Administrator. An application under this section shall be submitted at such time or times, in such manner, in such form, and containing such information as the Administrator determines necessary to carry out the functions assigned to the Administrator under this section, and shall—

(A) meet the requirements set forth in clauses (A) and (B) of section 419(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070e(c)(1));

(B) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of this title, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

(iii) to carry out active outreach (with special emphasis on educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study program (with special emphasis on the veteran-student services program under section 1685 of this title), and

(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of this title.

Notwithstanding clause (B) of the preceding sentence, an institution with less than 2,500 students in attendance which the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Education, cannot feasibly itself carry out any or all of the programs set forth in subclauses (i) through (iv) of clause (B) of the preceding sentence, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education, and shall be required to carry out such programs only to the extent that the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Education, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of such clause (B) shall be determined by the Administrator, in consultation with the Secretary of Education, based upon criteria established in regulations jointly prescribed by them.

(2) The Administrator shall not approve an application under this subsection unless the Administrator determines that the applicant will implement the requirements of clause (B) of paragraph (1) of this subsection within the first academic year during which such institution receives a payment under this section.

(Added P.L. 95-202, § 310(b).)

(d)(1) The Administrator shall pay to each institution of higher learning which has had an application approved under subsection (c) of this section the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of veterans on behalf of whom such payments are made in attendance at the institution at the time of the payment.

(2) The maximum amount of payments to any institution of higher learning, or any branch thereof which is located in a com-

munity which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Administrator shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

(Added P.L. 95-202, § 310(b).)

(e) Not less than 75 percent of the amounts paid to any institution under subsection (d) of this section in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c) of this section, and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 percent requirement shall be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1), except that the Administrator may, in accordance with criteria established in regulations jointly prescribed by the Administrator and the Secretary of Education, waive the requirement of this subsection to the extent that the Administrator finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

(Added P.L. 95-202, § 310(b).)

(f) The Administrator, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Secretary of Education pursuant to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), and the Secretary shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

(Added P.L. 95-202, § 310(b).)

(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Veterans' Administration.

(Added P.L. 95-202, § 310(b)(1); amended P.L. 97-295, § 4(8).)

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SUBCHAPTER I—GENERAL

§ 301. Definitions

For the purposes of this chapter—

(1) The term "veteran" includes a person who died in the active military, naval, or air service.

(2) The term "period of war" includes, in the case of any veteran—

(A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(3) The term "chronic disease" includes—

Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia

Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Administrator may add to this list.

(Amended P.L. 100-322, § 313.)

(4) The term "tropical disease" includes—

Amebiasis
Blackwater fever
Cholera
Dracontiasis
Dysentery
Filiariasis
Hansen's disease
Leishmaniasis, including kala-azar
Loiasis
Malaria
Onchocerciasis
Oroya fever
Pinta
Plague
Schistosomiasis
Yaws
Yellow fever

and such other tropical diseases as the Administrator may add to this list.

(Amended P.L. 94-433, §§ 401(2), (3), 404(1); P.L. 100-322, § 313.)

§ 302. Special provisions relating to surviving spouses

(a) No compensation shall be paid to the surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Amended P.L. 86-491; P.L. 90-77, § 101(a); P.L. 94-433, § 404(2).)

(b) Subsection (a) shall not be applicable to any surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Veterans' Administration in effect on December 31, 1957.

(Amended P.L. 94-433, § 404(3).)

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

§ 310. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

§ 311. Presumption of sound condition

For the purposes of section 310 of this title, every veteran shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance, and enrollment, or where clear and unmistakable evidence demonstrates that the injury or disease existed before acceptance and enrollment and was not aggravated by such service.

§ 312. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 percent degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(Amended P.L. 86-187; P.L. 86-188; P.L. 87-645, § 3; P.L. 98-223, § 101(c).)

(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) avitaminosis,
(2) beriberi (including beriberi heart disease),
(3) chronic dysentery,
(4) helminthiasis,
(5) malnutrition (including optic atrophy associated with malnutrition),
(6) pellagra,
(7) any other nutritional deficiency,
(8) psychosis,
(9) any of the anxiety states,
(10) dysthymic disorder (or depressive neurosis),
(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,
(12) post-traumatic osteoarthritis,
(13) peripheral neuropathy except where directly related to infectious causes,
(14) irritable bowel syndrome, or
(15) peptic ulcer disease,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

(Added P.L. 91–376, § 3(a); amended P.L. 97–37, § 4(a); P.L. 98–223, §§ 101(c), 111; P.L. 99–576, §108(a); P.L. 100–322, § 312.)

(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1) of this subsection are the following:

(A) Leukemia (other than chronic lymphocytic leukemia).
(B) Cancer of the thyroid.
(C) Cancer of the breast.
(D) Cancer of the pharynx.
(E) Cancer of the esophagus.
(F) Cancer of the stomach.
(G) Cancer of the small intestine.
(H) Cancer of the pancreas.
(I) Multiple myeloma.
(J) Lymphomas (except Hodgkin's disease).
(K) Cancer of the bile ducts.
(L) Cancer of the gall bladder.

(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

(4) For the purposes of this subsection:

(A) The term "radiation-exposed veteran" means a veteran who, while serving on active duty, participated in a radiation-risk activity.

(B) The term "radiation-risk activity" means any of the following:

(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.

(Added P.L. 100–321, § 2(a).)

§ 313. Presumptions rebuttable

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases within the purview of section 312 of this title, has been suffered between the date of separation from service and the onset of any such diseases, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 312 of this title will not be in order.

(b) Nothing in section 312 of this title or subsection (a) of this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be $73;

(b) if and while the disability is rated 20 percent the monthly compensation shall be $138;

(c) if and while the disability is rated 30 percent the monthly compensation shall be $210;

(d) if and while the disability is rated 40 percent the monthly compensation shall be $300;

(e) if and while the disability is rated 50 percent the monthly compensation shall be $426;

(f) if and while the disability is rated 60 percent the monthly compensation shall be $537;

(g) if and while the disability is rated 70 percent the monthly compensation shall be $678;

(h) if and while the disability is rated 80 percent the monthly compensation shall be $784;

(i) if and while the disability is rated 90 percent the monthly compensation shall be $883;

(j) if and while the disability is rated as total the monthly compensation shall be $1,468;

(Amended P.L. 87-645, § 1(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, § 101(a); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66, § 101(a); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-238, §101(a); P.L. 99-576, §101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $63 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed $1,825 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (*l*) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed $2,559 per month;

(Amended P.L. 87-645, § 1(a); P.L. 88-20, § 1; P.L. 88-22, § 1; P.L. 89-311, § 1(a); P.L. 90-77, § 401; P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, § 101(a); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66, § 101(a); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-238, § 101(a); P.L. 99-576, § 101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(*l*) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $1,825;

(Amended P.L. 87-645, § 1(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, § 101(a); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66,

§§ 101(a), 104(1); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-238, §101(a); P.L. 99-576, §101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $2,012;

(Amended P.L. 87-645, § 1(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-133, §§ 101(a), 404(6); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66, §§ 101(a), 104(2); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-576, § 101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be $2,289;

(Amended P.L. 87-645, § 1(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, § 101(a); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66, §§ 101(a), 104(3); P.L. 97-253, § 405(b); P.L. 97-306, §§ 101(a), 111(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a) P.L. 99-576, § 101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(*o*) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (*l*) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be $2,559;

(Amended P.L. 87–645, § 1(a); P.L. 89–311, §§ 1(a), 3(d); P.L. 90–493, § 1(a); P.L. 91–376, § 1(a); P.L. 92–328, § 101(a); P.L. 93–295, § 101(a); P.L. 94–71, § 101(a); P.L. 94–433, §§ 101(a), 401(4), 404(6); P.L. 95–117, § 101(a); P.L. 95–479, § 101(a); P.L. 96–128, § 101(a); P.L. 96–385, § 101(a); P.L. 97–66, §§ 101(a), 104(4); P.L. 97–253, § 405(b); P.L. 97–306, § 101(a); P.L. 98–238, §§ 101(a), 112(a); P.L. 99–576, § 101(a); P.L. 100–227, § 101(a); P.L. 100–687, § 1101(a).)

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of $2,559. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of $2,559. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Administrator shall allow the next intermediate rate, but in no event in excess of $2,559. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of $2,559. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

(Amended P.L. 87–645, § 1(a); P.L. 89–311, § 3(e); P.L. 90–493, § 1(a); P.L. 91–376, § 1(a); P.L. 92–328, § 101(a); P.L. 93–295, § 101(a); P.L. 94–71, § 101(a); P.L. 94–433, §§ 101(a), 404(7); P.L. 95–117, § 101(a); P.L. 95–479, § 101(a), (b); P.L. 96–128, §§ 101(a), 105; P.L. 96–385, § 101(a); P.L. 97–66, § 101(a); P.L. 97–253, §§ 404(a), 405(b); P.L. 97–306, §§ 101(a), 111(b); P.L. 98–223, §§ 101(a), 112(b); P.L. 98–543, § 101(a); P.L. 99–238, § 101(a); P.L. 99–576, § 101(a); P.L. 100–227, § 101(a); P.L. 100–687, § 1101(a).)

[(q) Repealed. P.L. 90–493, § 4(a), Aug. 19, 1968.] [1]

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[1] Subsection (q) repealed by sec. 4(a) of Public Law 90–493, provided as follows:

"(q) If the veteran is shown to have had service-connected disability resulting from an active tuberculosis disease, which disease in the judgment of the Administrator has reached a condition of complete arrest, the monthly compensation shall not be less than $67."

Section 4(b), Public Law 90–493 provides:

Continued

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of $1,098; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of $1,636, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(Added P.L. 85-782, § 2; amended P.L. 87-645, §§ 1(a), 2(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, §§ 101(a), 401(5), 404(8); P.L. 95-117, § 101(a); P.L. 95-479, § 101(c); P.L. 96-128, §§ 101(a), 104; P.L. 96-385, § 101(a); P.L. 97-66, § 101(a); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-238, § 101(a); P.L. 99-576, § 101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be $1,643. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutional-

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"(b) The repeals made by subsection (a) of this section shall not apply in the case of any veteran who, on the date of enactment of this Act, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest."

ized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Added P.L. 86-663, § 1; amended P.L. 87-645, § 1(a); P.L. 89-311, § 1(a); P.L. 90-493, § 1(a); P.L. 91-376, § 1(a); P.L. 92-328, § 101(a); P.L. 93-295, § 101(a); P.L. 94-71, § 101(a); P.L. 94-433, §§ 101(a), 404(8); P.L. 95-117, § 101(a); P.L. 95-479, § 101(a); P.L. 96-128, § 101(a); P.L. 96-385, § 101(a); P.L. 97-66, § 101(a); P.L. 97-253, § 405(b); P.L. 97-306, § 101(a); P.L. 98-223, § 101(a); P.L. 98-543, § 101(a); P.L. 99-238, § 101(a); P.L. 99-576, § 101(a); P.L. 100-227, § 101(a); P.L. 100-687, § 1101(a).)

[(t) Repealed. P.L. 99-576 § 109(b), Oct. 28, 1986.]

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, $88;

(B) has a spouse and one or more children, $148 plus $46 for each child in excess of one;

(C) has no spouse but one or more children, $61 plus $46 for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, $71 for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $161 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be $136 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

(2) If and while rated partially disabled, but not less than 30 percent, in an amount having the same ratio to the amount specified in paragraph (1) of this section as the degree of disability bears to total disability. The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.

(Amended P.L. 86-499, § 1; P.L. 89-137, § 1(b); P.L. 89-311, § 2(a), (b); P.L. 91-376, § 2; P.L. 92-328, § 102; P.L. 93-295, § 102; P.L. 94-71, § 102; P.L. 94-433, §§ 102, 404(9)-(11); P.L. 95-117, § 102; P.L. 95-479, § 102; P.L. 96-128, § 102; P.L. 96-385, § 102; P.L. 97-66, § 102;

P.L. 97-253, §§ 404(b), 405(c); P.L. 97-306, § 102; P.L. 98-223, § 102(a), (b); P.L. 98-543, § 102; P.L. 99-576, § 102; P.L. 100-227, § 102; P.L. 100-687, § 1102.)

SUBCHAPTER III—WARTIME DEATH COMPENSATION

§ 321. Basic entitlement

The surviving spouse, child, or children, and dependent parent or parents of any veteran who died before January 1, 1957 as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during a period of war, shall be entitled to receive compensation at the monthly rates specified in section 322 of this title.

(Amended P.L. 92-197, § 6; P.L. 94-433, § 404(12).)

§ 322. Rates of wartime death compensation

(a) The monthly rates of death compensation shall be as follows:

(1) Surviving spouse but no child, $87;

(2) Surviving spouse with one child, $121 (with $29 for each additional child);

(3) No surviving spouse but one child, $67;

(4) No surviving spouse but two children, $94 (equally divided);

(5) No surviving spouse but three children, $122 (equally divided) (with $23 for each additional child, total amount to be equally divided);

(6) Dependent parent, $75;

(7) Both dependent parents, $40 each.

(Amended P.L. 94-433, § 404(13)-(16).)

(b) The monthly rate of death compensation payable to a surviving spouse or dependent parent under subsection (a) of this section shall be increased by $79 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Added P.L. 91-96, § 7; amended P.L. 91-588, § 3(a); P.L. 92-197, § 9; P.L. 93-295, § 204; P.L. 94-169, § 202; P.L. 94-432, § 401; P.L. 94-433, § 404(17); P.L. 95-204, § 301.)

SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

§ 331. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

§ 332. Presumption of sound condition

For the purposes of section 331 of this title, every person employed in the active military, naval, or air service for six months or more shall be taken to have been in sound condition when examined, accepted and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance and enrollment, or where evidence or medical judgment is such as to warrant a finding that the disease or injury existed before acceptance and enrollment.

§ 333. Presumptions relating to certain diseases

(a) For the purposes of section 331 of this title, and subject to the provisions of subsections (b) and (c) of this section, any veteran who served for six months or more and contracts a tropical disease or a resultant disorder or disease originating because of therapy administered in connection with a tropical disease, or as a preventive thereof, shall be deemed to have incurred such disability in the active military, naval, or air service when it is shown to exist within one year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service.

(b) Service-connection shall not be granted pursuant to subsection (a), in any case where the disease or disorder is shown by clear and unmistakable evidence to have had its inception before or after active military, naval, or air service.

(c) Nothing in this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

§ 334. Rates of peacetime disability compensation

For the purposes of section 331 of this title, the compensation payable for the disability shall be that specified in section 314 of this title.

(Amended P.L. 92–328, § 108(a).)

§ 335. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 334 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional monthly compensation for dependents as provided in section 315 of this title.

(Amended P.L. 92–328, § 108(b); P.L. 98–543, § 112(a).)

§ 337. Wartime presumptions for certain veterans

For the purposes of this subchapter and subchapter V of this chapter and notwithstanding the provisions of sections 332 and 333 of this subchapter, the provisions of sections 311, 312, and 313 of this chapter shall be applicable in the case of any veteran who served in the active military, naval, or air service after December 31, 1946.

(Added P.L. 89–358, § 7(a); amended P.L. 93–295, § 205.)

SUBCHAPTER V—PEACETIME DEATH COMPENSATION

§ 341. Basic entitlement

The surviving spouse, child or children, and dependent parent or parents of any veteran who died before January 1, 1957, as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during other than a period of war, shall be entitled to receive compensation as hereinafter provided in this subchapter.

(Amended P.L. 92–197, § 6; P.L. 94–433, § 404(18).)

§ 342. Rates of peacetime death compensation

For the purposes of section 341 of this title, the monthly rates of death compensation payable shall be those specified in section 322 of this title.

(Amended P.L. 93–295, § 206(a).)

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

§ 351. Benefits for persons disabled by treatment or vocational rehabilitation

Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded under any of the laws administered by the Veterans' Administration, or as a result of having submitted to an examination under any such law, and not the result of such veteran's own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected. Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability, aggravation, or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability, aggravation, or death becomes final until the aggregate amount of benefits which would be paid but for this sentence equals the total amount included in such judgment, settlement, or compromise.

(Amended P.L. 87–825, § 3; P.L. 91–24, § 3; P.L. 94–433, § 404(19); P.L. 98–223, § 213.)

§ 352. Persons heretofore having a compensable status

The death and disability benefits of this chapter shall, notwithstanding the service requirements thereof, be granted to persons heretofore recognized by law as having a compensable status, including persons whose claims are based on war or peacetime service rendered before April 21, 1898.

§ 353. Aggravation

A preexisting injury or disease will be considered to have been aggravated by active military, naval, or air service, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease.

§ 354. Consideration to be accorded time, place and circumstances of service

(a) The Administrator shall include in the regulations pertaining to service-connection of disabilities (1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence, and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act.

(Amended P.L. 94–433, § 404(20); P.L. 98–542, § 4.)

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the Administrator shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

§ 355. Authority for schedule for rating disabilities

The Administrator shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent. The Administrator shall from time to time readjust this schedule of ratings in accordance with experience.

(Amended P.L. 98–223, § 101(c).)

[§ 356. Repealed, P.L. 90-793, § 4(a), Aug. 19, 1968.] [1]

§ 357. Combination of certain ratings

The Administrator shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

§ 358. Disappearance

Where a veteran receiving compensation under this chapter disappears, the Administrator may pay the compensation otherwise payable to the veteran to such veteran's spouse, children, and parents. Payments made to such veteran's spouse, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

(Amended P.L. 86-212; P.L. 94-433, § 404(21).)

§ 359. Protection of service connection

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes.

(Added P.L. 86-501; amended P.L. 87-825, § 6.)

§ 360. Special consideration for certain cases of loss of paired organs or extremities

(a) Where a veteran has suffered—

(1) blindness in one eye as a result of service-connected disability and blindness in the other eye as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

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[1] Section 356 was repealed by section 4(a) of Public Law 90-493. Before its repeal, the text of section 356 provided as follows:

"Any veteran shown to have active tuberculosis which is compensable under this chapter, who in the judgment of the Administrator has reached a condition of complete arrest, shall be rated as totally disabled for a period of two years following such date of arrest, as 50 per centum disabled for an additional period of four years, and 30 per centum for a further five years. Following far advanced active lesions the permanent rating shall be 30 per centum, and following moderately advanced lesions, the permanent rating, after eleven years, shall be 20 per centum, provided there is continued disability, dyspnea on exertion, impairment of health, and so forth; otherwise the rating shall be zero per centum. The total disability rating herein provided for the two years following a complete arrest may be reduced to 50 per centum for failure to follow prescribed treatment or to submit to examination when requested. This section shall not be construed as requiring a reduction of compensation authorized under any other provision of this chapter."

Section 4(b) of Public Law 90-493 provides:

"(b) The repeals made by subsection (a) of this section shall not apply in the case of any veteran who, on the date of enactment of this Act, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest."

(2) the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

(3) total deafness in one ear as a result of service-connected disability and total deafness in the other ear as the result of non-service-connected disability not the result of the veteran's own willful misconduct;

(4) the loss or loss of use of one hand or one foot as a result of service-connected disability and the loss or loss of use of the other hand or foot as a result of non-service-connected disability not the result of the veteran's own willful misconduct; or

(5) permanent service-connected disability of one lung, rated 50 percent or more disabling, in combination with a non-service-connected disability of the other lung that is not the result of the veteran's own willful misconduct,

the Administrator shall assign and pay to the veteran the applicable rate of compensation under this chapter as if the combination of disabilities were the result of service-connected disability.

(b) If a veteran described in subsection (a) of this section receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such subsection, the increase in the rate of compensation otherwise payable under this section shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

(Added P.L. 87-610, § 1; amended P.L. 89-311, § 3(a), (b); P.L. 94-433, § 404(22); P.L. 98-160, § 702; P.L. 99-576, § 109(a).)

§ 361. Payment of disability compensation in disability severance cases

The deduction of disability severance pay from disability compensation, as required by section 1212(c) of title 10, shall be made at a monthly rate not in excess of the rate of compensation to which the former member would be entitled based on the degree of such former member's disability as determined on the initial Veterans' Administration rating.

(Added P.L. 91-241; amended P.L. 94-433, § 404(23); P.L. 98-160, § 702.)

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of $395 per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

(Added P.L. 92-328, § 103(a); amended P.L. 94-71, § 103; P.L. 94-433, §§ 301, 404(24); P.L. 95-117, § 301; P.L. 95-479, § 103; P.L. 96-128, § 103; P.L. 96-385, § 103; P.L. 97-66, § 103; P.L. 97-253, § 405(d); P.L. 97-306, § 103; P.L. 98-223, § 103; P.L. 99-576, § 103; P.L. 100-227, § 103; P.L. 100-687, § 1103.)

§ 363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings

(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation during the program period may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

(2) For purposes of this section:

(A) The term "qualified veteran" means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(B) The term "program period" means the period beginning on February 1, 1985, and ending on January 31, 1992.

(Added P.L. 98-543, § 111(a)(1); amended P.L. 100-687, § 1301(a).)

(b) During the program period, the Administrator shall make counseling services described in section 1504(a)(2) of this title and placement and postplacement services described in section 1504(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

(Added P.L. 98-543, § 111(a)(1); P.L. 100-687, § 1301(b).)

(c)(1) In the case of each award during the program period of a rating of total disability described in subsection (a)(2)(A) of this section to a veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

(A) notice of the provisions of this section;

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2) After providing the notice required under paragraph (1) of this subsection, the Administrator shall offer the veteran the opportunity for an evaluation under section 1506(a) of this title.

(Added P.L. 98-543, § 111(a)(1); amended P.L. 100-687, § 1301(b).)

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

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SUBCHAPTER III—CERTIFICATIONS

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SUBCHAPTER I—GENERAL

§ 401. Definitions

As used in this chapter—

The term "veteran" includes a person who died in the active military, naval, or air service.

(Amended P.L. 91-24, § 4(a); P.L. 91-96, § 5.)

§ 402. Determination of pay grade

(a) With respect to a veteran who died in the active military, naval, or air service, such veteran's pay grade shall be determined as of the date of such veteran's death or as of the date of a promotion after death while in a missing status.

(Amended P.L. 91-96, § 1; P.L. 92-169, § 2; P.L. 94-433, § 405(1).)

(b) With respect to a veteran who did not die in the active military, naval, or air service, such veteran's pay grade shall be determined as of—

(1) the time of such veteran's last discharge or release from active duty under conditions other than dishonorable; or

(2) the time of such veteran's discharge or release from any period of active duty for training or inactive duty training, if such veteran's death results from service-connected disability incurred during such period and if such veteran was not there-

after discharged or released under conditions other than dishonorable from active duty.

(Amended P.L. 91-96, § 1; P.L. 94-433, § 405(1).)

(c) The pay grade of a veteran described in section 106(b) of this title shall be that to which such veteran would have been assigned upon final acceptance or entry upon active duty.

(Amended P.L. 91-96, § 1; P.L. 94-433, § 405(2).)

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a pay grade higher than that specified in subsection (a) or (b) and any subsequent discharge or release from active duty was under conditions other than dishonorable, the higher pay grade shall be used if it will result in greater monthly payments to such veteran's surviving spouse under this chapter. The determination as to whether an individual has served satisfactorily for the required period in a higher pay grade shall be made by the Secretary of the Department in which such higher pay grade was held.

(Added P.L. 86-492; amended P.L. 89-622, § 1; P.L. 91-96, § 1; P.L. 94-433, § 405(2).)

(e) The pay grade of any person not otherwise described in this section, but who had a compensable status on the date of such person's death under laws administered by the Veterans' Administration, shall be determined by the head of the department under which such person performed the services by which such person obtained such status (taking into consideration such person's duties and responsibilities) and certified to the Administrator. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

(Added P.L. 91-96, § 1; amended P.L. 94-433, § 405(3).)

[§ 403. Repealed, P.L. 97-306, § 113(b)(1).]

§ 404. Special provisions relating to surviving spouses

No dependency and indemnity compensation shall be paid to the surviving spouse of a veteran dying after December 31, 1956, unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Amended P.L. 90-77, § 101(a); P.L. 94-433, § 405(4).)

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(Amended P.L. 94-433, § 405(7).)

(b) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

(Amended P.L. 94-433, § 405(7); P.L. 100-687, § 1403(b).)

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$539	W-4	$773
E-2	555	0-1	682
E-3	570	0-2	704
E-4	606	0-3	754
E-5	622	0-4	797
E-6	636	0-5	879
E-7	667	0-6	991
E-8	704	0-7	1,071
E-9	[1] 735	0-8	1,174
W-1	682	0-9	1,259
W-2	709	0-10	[2] 1,381
W-3	730		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $794.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,480.

(Amended P.L. 88-134, § 1; P.L. 91-96, § 3; P.L. 92-197, § 1; P.L. 92-455, § 4; P.L. 93-295, § 201; P.L. 94-71, § 201; P.L. 94-433, § 201; P.L. 95-117, § 201; P.L. 95-479, § 201(a); P.L. 96-128, § 201(a); P.L. 96-385, § 201(a); P.L. 97-66, § 201(a); P.L. 97-253, § 405(e)(1); P.L. 97-306, § 104(a); P.L. 98-223, § 104(a); P.L. 98-543, § 104(a); P.L. 99-238, § 104; P.L. 99-576, § 104; P.L. 100-180, § 1314(d); P.L. 100-227, § 104; P.L. 100-687, § 1104.)

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $62 for each such child.

(Amended P.L. 88–21, § 1; P.L. 91–96, § 3; P.L. 92–197, § 1; P.L. 93–295, § 201; P.L. 94–71, § 201; P.L. 94–433, § 201; P.L. 95–117, § 201; P.L. 95–479, § 201(b); P.L. 96–128, § 201(b); P.L. 96–385, § 201(b); P.L. 97–66, § 201(b); P.L. 97–253, § 405(e)(2); P.L. 97–306, § 104(b); P.L. 98–223, § 104(b); P.L. 98–543, § 104(b); P.L. 99–238, § 104; P.L. 99–576, § 104; P.L. 100–227, § 104; P.L. 100–687, § 1104.)

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $161 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Amended P.L. 91–96, § 3; P.L. 91–558, § 3(a); P.L. 93–295, § 201; P.L. 94–71, § 201; P.L. 94–433, § 201; P.L. 95–117, § 201; P.L. 95–479, § 201(c); P.L. 96–128, § 201(c); P.L. 96–385, § 201(c); P.L. 97–66, § 201(c); P.L. 97–253, § 405(e)(3); P.L. 97–306, § 104(c); P.L. 98–223, § 104(c); P.L. 98–543, § 104(c); P.L. 99–238, § 104, P.L. 99–576, § 104; P.L. 100–227, § 104; P.L. 100–687, § 1104.)

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $79 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

(Added P.L. 95–479, § 201(d); amended P.L. 96–128, § 201(d); P.L. 96–385, § 201(d); P.L. 97–66, § 201(d); P.L. 97–253, § 405(e)(4); P.L. 97–306, § 104(d); P.L. 98–223, § 104(d); P.L. 98–543, § 104(c); P.L. 99–238, § 104; P.L. 99–576, § 104; P.L. 100–227, § 104; P.L. 100–687, § 1104.)

§ 412. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 214 of the Social Security Act (42 U.S.C. 414)) at the time of such veteran's death;

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 202 of the Social

Security Act (42 U.S.C. 402) on the basis of such veteran's wages and self-employment income but who would, upon application therefor, be entitled to such benefits if such veteran had been fully and currently insured at the time of such veteran's death;

the Administrator shall pay for such monthly benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under title II of the Social Security Act (42 U.S.C. 201 et seq.) if such veteran had been both fully and currently insured at the time of such veteran's death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

(Amended P.L. 94-433, § 405(9); P.L. 98-223, § 213.)

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter to a surviving spouse who has children is less than the amount of pension which would be payable to (1) such surviving spouse, or (2) such children if the surviving spouse were not entitled, under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Administrator shall pay dependency and indemnity compensation to such surviving spouse in an amount equal to such amount of pension.

(Added P.L. 87-268, § 1(a); amended P.L. 89-466; P.L. 94-433, § 405(9).)

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, $271;

(2) two children, $391;

(3) three children, $505; and

(4) more than three children, $505, plus $100 for each child in excess of three.

(Amended P.L. 88-21, § 2; P.L. 89-730, § 4; P.L. 91-262, § 2; P.L. 92-197, § 2; P.L. 93-295, § 202; P.L. 94-71, § 202; P.L. 94-433, § 202; P.L. 95-117, § 202; P.L. 95-479, § 202; P.L. 96-128, § 202; P.L. 96-385, § 202; P.L. 97-66, §§ 202, 204(a); P.L. 97-253, § 405(f); P.L. 97-306, § 105; P.L. 98-223, § 105; P.L. 98-543, § 105; P.L. 99-238, § 105; P.L. 99-576, § 105; P.L. 100-227, § 105; P.L. 100-687, § 1105(a).)

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

(Added P.L. 97-66, § 204(a).)

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by $161.

(Amended P.L. 88-21, § 3(1); P.L. 89-730, § 5(1); P.L. 91-262, § 3(a); P.L. 92-197, § 3(a); P.L. 93-295, § 203(a); P.L. 94-71, § 203(a); P.L. 94-433, §§ 203(1), 405(10); P.L. 95-117, § 203(1); P.L. 95-479, § 203(1); P.L. 96-128, § 203(1); P.L. 96-385, § 203(1); P.L. 97-66, § 203(1); P.L. 97-253, § 405(g)(1); P.L. 97-306, § 106(1); P.L. 98-223, § 106(1); P.L. 98-543, § 106(1); P.L. 99-238, § 106; P.L. 99-576, § 106; P.L. 100-227, § 106; P.L. 100-687, § 1105(b).)

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $271.

(Amended P.L. 88-21, § 3(2); P.L. 89-730, § 5(2); P.L. 91-262, § 3(b); P.L. 92-197, § 3(b); P.L. 93-295, § 203(b); P.L. 94-71, § 203(b); P.L. 94-433, §§ 203(2), 405(10); P.L. 95-117, § 203(2); P.L. 95-479, § 203(2); P.L. 96-128, § 203(2); P.L. 96-385, § 203(2); P.L. 97-66, § 203(2); P.L. 97-253, § 405(g)(2); P.L. 97-306, § 106(2); P.L. 98-223, § 106(2); P.L. 98-543, § 106(2); P.L. 99-238, § 106; P.L. 99-576, § 106; P.L. 100-227, § 106; P.L. 100-687, § 1105(b).)

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $138.

(Amended P.L. 88-21, § 3(3); P.L. 89-311, § 2(c)(2); P.L. 89-730, § 5(3); P.L. 91-262, § 3(c); P.L. 92-197, § 3(c); P.L. 93-295, § 203(c); P.L. 94-71, § 203(c); P.L. 94-433, §§ 203(3), 405(10); P.L. 95-117, § 203(3); P.L. 95-479, § 203(3); P.L. 96-128, § 203(3); P.L. 96-385, § 203(3); P.L. 97-66, § 203(3); P.L. 97-253, § 405(g)(3); P.L. 97-306, § 106(3); P.L. 98-

223, § 106(3); P.L. 98–543, § 106(3); P.L. 99–238, § 106); P.L. 99–576, § 106; P.L. 100–227, § 106; P.L. 100–687, § 1105(b).)

§ 415. Dependency and indemnity compensation to parents [1]

(a) Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 3112 of this title.

(4) If there is only one parent and such parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to such parent under either paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent. In such a case of remarriage the total combined annual income of the parent and such parent's spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.

(Amended P.L. 88–21, § 4(a); P.L. 89–730, § 1(a); P.L. 90–275, § 2(a); P.L. 91–588, § 2(a); P.L. 92–197, § 4(a); P.L. 93–177, § 4(a); P.L. 93–527, § 7(1); P.L. 94–169, § 201(1), (2); P.L. 94–432, § 301(1), (2); P.L. 95–204, § 201(1), (2); P.L. 95–588; § 201(a).)

(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.

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[1] As explained in the footnote to section 521, the rates and income limitations specified in this section were increased, as of December 1, 1988, as follows:

- (1) One parent (subsec. (b)).
  - (a) Rate, $303.
  - (b) Annual income limitation, $7,351.
- (2) Two parents not living together (subsec. (c)).
  - (a) Rate, $217 each.
  - (b) Annual income limitation, $7,351 each.
- (3) Two parents living together or a remarried parent living with spouse (subsec. (d)).
  - (a) Rate, $204 each.
  - (b) Annual combined income limitation, $9,885.
- (4) Increase for nursing-home patients and those in need of aid and attendance (subsec. (g)), $161.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 3112 of this title.

(Amended P.L. 88-21, § 4(b); P.L. 89-730, § 1(b); P.L. 90-275, § 2(b); P.L. 91-588, § 2(b); P.L. 92-197, § 4(b); P.L. 93-177, § 4(b); P.L. 93-527, § 7(2); P.L. 94-169, § 201(3); P.L. 94-432, § 301(3), (4); P.L. 95-204, § 201(3), (4); P.L. 95-588, § 201(b).)

(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $5,430, as increased from time to time under section 3112 of this title.

(Amended P.L. 88-21, § 4(b); P.L. 89-730, § 1(c); P.L. 90-275, § 2(c); P.L. 91-588, § 2(c); P.L. 92-197, § 4(c); P.L. 93-177, § 4(c); P.L. 93-527, § 7(3); P.L. 94-169, § 201(3); P.L. 94-432, § 301(5), (6); P.L. 95-204, § 201(5), (6); P.L. 95-588, § 201(c).)

(e) The Administrator shall require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent, other than one who has attained seventy-two years of age and has been paid dependency and indemnity compensation during two consecutive calendar years, file each year with the Administrator (on the form prescribed by the Administrator) a report showing the total income which such parent expects to receive in that year and the total income which such parent received in the preceding year. The parent or parents shall file with the Administrator a revised report whenever there is a material change in the estimated annual income.

(Amended P.L. 91-588, § 2(d); P.L. 94-169, § 201(4).)

(f)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the six-months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 412(a)) and chapters 11 and 15 of this title and under the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

(D) lump-sum death payments under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(E) payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces;

(F) payments under policies of servicemen's group life insurance, United States Government life insurance or national service life insurance, and payments of servicemen's indemnity;

(G) 10 percent of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(H) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) a deceased spouse's just debts,

(ii) the expenses of the spouse's last illness to the extent such expenses are not reimbursed under chapter 51 of this title, and

(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 or chapter 51 of this title;

(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss;

(J) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) the expenses of the veteran's last illness, and

(ii) the expenses of such veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

(K) profit realized from the disposition of real or personal property other than in the course of a business;

(L) payments received for discharge of jury duty or obligatory civic duties;

(M) payments of annuities elected under subchapter I of chapter 73 of title 10.

(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(3) The Administrator may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.

(Amended P.L. 87-268, § 1(b); P.L. 89-730, § 2; P.L. 91-588, § 8(a); P.L. 92-197, § 4(d); P.L. 92-425, § 6(1); P.L. 94-169, § 201(6); P.L. 96-466, § 605(c)(1); P.L. 97-295, § 4(10); P.L. 100-687, § 1402(a).)

(g) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $85, as increased from time to time under section 3112 of this title, if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Added P.L. 92-197, § 4(e); amended P.L. 93-527, § 7(4); P.L. 94-169, § 201(7); P.L. 94-432, § 301(7); P.L. 95-204, § 201(7); P.L. 95-588, § 201(d); P.L. 96-466, § 605(c)(1).)

§ 416. Dependency and indemnity compensation in cases of prior deaths

(a)(1) Any person who is eligible as a surviving spouse or child for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor.

(2) Any person who is eligible as a parent, or, but for such person's annual income, would be eligible as a parent, for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor; however, the annual income limitations established by section 415 of this title shall apply to each such parent.

(Amended P.L. 94-433, § 405(11).)

(b)(1) Whenever the surviving spouse of a veteran has been granted dependency and indemnity compensation by reason of this section, payments to such surviving spouse and to the children of the veteran shall thereafter be made under this chapter, and shall not thereafter be made to them by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(2) Whenever the child or parent of any veteran is granted dependency and indemnity compensation, payments shall not thereafter be made to such child or parent by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(Amended P.L. 94-433, § 405(12); P.L. 97-295, § 4(11).)

(c) If children of a deceased individual are receiving death compensation, and all such children have not applied for dependency and indemnity compensation, (1) dependency and indemnity compensation paid to each child who has applied therefor shall not exceed the amounts which would be paid if the application had been made by, or on behalf of, all such children, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or under subchapter I of chapter 81 of title 5, to each child who has not so applied therefor shall not exceed the amounts which would be paid to such child if no such application had been made.

(Amended P.L. 94-433, § 405(13); P.L. 97-295, § 4(11).)

(d) If there are two parents of a deceased individual eligible for benefits by reason of subsection (a), and an application for dependency and indemnity compensation is not made by both parents, (1) dependency and indemnity compensation paid to the parent who applies therefor shall not exceed the amounts which would be paid to such parent if both parents had so applied, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation, or under subchapter I of chapter 81 of title 5, to the parent who has not so applied therefor shall not exceed the amounts which would be paid to such parent if no such application had been made.

(Amended P.L. 94-433, § 405(14); P.L. 97-295, § 4(11).)

(e)(1) Except as provided in paragraphs (3) and (4), no person who, on January 1, 1957, was a principal or contingent beneficiary of any payments under the Servicemen's Indemnity Act of 1951 may receive any such payments based upon the death giving rise to such payments after such person has been granted dependency and indemnity compensation based upon that death. No principal or contingent beneficiary who has assigned such beneficiary's interest in payments under the Servicemen's Indemnity Act of 1951 after June 28, 1956, may receive any payments under this chapter based upon the death giving rise to such payments until the portion of the indemnity so assigned is no longer payable to any person.

(2) Where a beneficiary is barred from the receipt of payments under the Servicemen's Indemnity Act of 1951 by virtue of the first sentence of paragraph (1), no payments of the portion of indemnity in which such beneficiary had an interest shall be made to any other beneficiary.

(3) In the case of a child who has applied for dependency and indemnity compensation pursuant to this section or prior corresponding provisions of law, and who is or becomes a beneficiary under the Servicemen's Indemnity Act of 1951 by reason of the death giving rise to such child's eligibility for dependency and indemnity compensation, the Administrator shall determine and pay to such child for each month, or part thereof, payments under this chapter or under such Act, whichever payment the Administrator determines to be the greater amount.

(4) Notwithstanding paragraph (2), where a child receives dependency and indemnity compensation under this chapter, and thereafter dies, the portion of servicemen's indemnity in which such child had an interest may be paid (subject to paragraph (3)) to another child of the person by reason of whose death such servicemen's indemnity was payable.

(Amended P.L. 94-433, § 405(15), (16).)

§ 417. Restriction on payments under this chapter [1]

No person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Veterans' Administration providing for the payment of death compensation or death pension, or (2) subchapter I of chapter 81 of title 5.

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[1] A prior subsection (a) of section 417 was repealed by section 5 of P.L. 92-197.

Section 8 of P.L. 92-197 provides:

"Sec. 8. Any person who before January 1, 1972, was not eligible for dependency and indemnity compensation under such title by reason of the provisions of the prior section 417(a) of title 38, United States Code, may elect, in such manner as the Administrator of Veterans' Affairs shall prescribe, to receive dependency and indemnity compensation, and an election so made shall be final. A person receiving, or entitled to receive, death compensation on December 31, 1971, shall continue to receive death compensation, if otherwise eligible, in the absence of an election to receive dependency and indemnity compensation."

(Amended P.L. 92–197, § 5; P.L. 97–295, § 4(11).)

§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the surviving spouse was married to the veteran for two years or more immediately preceding the veteran's death; or

(2) a child was born of the marriage or was born to them before the marriage.

(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

(Added P.L. 100–687, § 1403(a).)

SUBCHAPTER III—CERTIFICATIONS

§ 421. Certifications with respect to pay grade

The Secretary concerned shall, at the request of the Administrator, certify to the Administrator the pay grade of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Administrator.

(Amended P.L. 91-96, § 4; P.L. 94-433, § 405(17).)

§ 422. Certifications with respect to social security entitlement

(a) Determinations required by section 412(a) of this title (other than a determination required by section 412(a)(2) of this title) as to whether any survivor described in section 412(a)(3) of this title of a deceased individual would be entitled to benefits under section 202 of the Social Security Act (42 U.S.C. 402) for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of such veteran's death, shall be made by the Secretary of Health and Human Services, and shall be certified by such Secretary to the Administrator upon request of the Administrator.

(Amended P.L. 87-268, § 1(c); P.L. 94-433, § 405(18); P.L. 97-295, § 4(12), (95)(A).)

(b) Upon the basis of estimates made by the Secretary of Health and Human Services after consultation with the Administrator, the Administrator shall pay to the Secretary an amount equal to the costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Administrator may prescribe. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

(Amended P.L. 97-295, § 4(95)(A).)

(c) Except with respect to determinations made under subsection (a) of this section, the Administrator shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 412(a) of this title.

(Amended P.L. 87-268, § 1(b).)

§ 423. Certifications by Administrator

Whenever the Administrator determines on the basis of a claim for benefits filed with the Administrator that a death occurred under the circumstances referred to in section 1476(a) of title 10, or section 321(b) of title 32, the Administrator shall certify that fact to the Secretary concerned. In all other cases, the Administrator shall make the determination referred to in such section 1476(a) or 321(b) at the request of the Secretary concerned.

(Amended P.L. 94-433, § 405(19).)

CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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SUBCHAPTER I—GENERAL

§ 501. Definitions

For the purposes of this chapter—

(1) The term "Indian Wars" means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term "World War I" includes, in the case of any veteran, any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term "Civil War veteran" includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term "active military or naval service" includes active service in those forces.

(4) The term "period of war" means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(Amended P.L. 94-169, § 106(1); P.L. 95-588, § 101.)

§ 502. Determinations with respect to disability

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such person is sixty-five years of age or older or became unemployable after age 65, or suffering from—

> (1) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or
>
> (2) any disease or disorder determined by the Administrator to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(Amended P.L. 90-77, § 102(a); P.L. 94-169, § 106(2); P.L. 94-432, § 201.)

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if such person is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Amended P.L. 90-77, § 102(b); P.L. 94-169, § 106(2).)

(c) For the purposes of this chapter, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Added P.L. 88-664, § 6(b); amended P.L. 94-169, § 106(2).)

§ 503. Determinations with respect to annual income

(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

(1) donations from public or private relief or welfare organizations;

(2) payments under this chapter;

(3) amounts equal to amounts paid by a spouse of a veteran for the expenses of such veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

(A) such veteran's just debts,

(B) the expenses of such veteran's last illness, and

(C) the expenses of such veteran's burial to the extent such expenses are not reimbursed under chapter 23 of this title;

(4) amounts equal to amounts paid—

(A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or

(B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;

(5) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;

(6) profit realized from the disposition of real or personal property other than in the course of a business;

(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of other joint owner;

(8) amounts equal to amounts paid by a veteran, veteran's spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 per centum of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;

(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in

connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); and

(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

(A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1954 (26 U.S.C. 6012(a)), to be filed by an individual who is not married (as determined under section 143 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

(B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials.

(Amended P.L. 86-211, § 2(a); P.L. 87-268, § 1(b); P.L. 88-664, § 1; P.L. 90-77, § 103; P.L. 91-588, § 7; P.L. 92-425, § 6(2); P.L. 94-169, §§ 101(2)(A), 106(3)-(7); P.L. 95-588, § 102(a); P.L. 97-295, § 4(13); P.L. 100-687, § 1402(b).)

(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(Added P.L. 92-198, § 2(b).)

§ 504. Persons heretofore having a pensionable status

The pension benefits of subchapters II and III of this chapter shall, notwithstanding the service requirements of such subchapters, be granted to persons heretofore recognized by law as having a pensionable status.

§ 505. Payment of pension during confinement in penal institutions

(a) No pension under public or private laws administered by the Veterans' Administration shall be paid to or for an individual who has been imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after such individual's imprisonment begins and ending when such individual's imprisonment ends.

(Amended P.L. 94-169, § 106(9).)

(b) Where any veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to such veteran's spouse or children the pension which such veteran would receive for that period but for this section.

(Amended P.L. 94-169, § 106(10).)

(c) Where any surviving spouse or child of a veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the surviving spouse is so disqualified, pay to the child, or children, the pension which would be payable if there were no such surviving spouse or (2) if a child is so disqualified, pay to the surviving spouse or other children, as applicable, the pension which would be payable if there were no such child.

(Amended P.L. 94-169, § 106(11).)

§ 506. Resource reports and overpayment adjustments

As a condition of granting or continuing pension under section 521, 541, or 542 of this title, the Administrator—

(1) may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as the Administrator determines to be necessary in order to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such a child is hereinafter in this subsection referred to as a "dependent child"), and, in the case of a child applying for or in receipt of pension under section 542 of this title (hereinafter in this subsection referred to as a "surviving child"), of any person with whom such child is residing who is legally responsible for such child's support;

(2) shall require that any such applicant or recipient file each year with the Veterans' Administration (on such form as may be prescribed for such purpose by the Administrator) a report showing—

(A) the annual income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

(B) such applicant's or recipient's estimate for the then current year of the annual income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or recipient (and for any such spouse or dependent child); and

(C) in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support and of any expected increase in the value of the corpus of the estate of such person;

(3) shall require that any such applicant or recipient promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in such applicant's or recipient's estimate of the value of the

corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; and

(4) shall require that any such applicant or recipient applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or recipient promptly notify the Administrator if such person ceases to meet the applicable definition of spouse or child.

(Added P.L. 86-211, § 2(b); amended P.L. 88-664, § 2; P.L. 91-588, § 6; P.L. 94-169, § 106(12)-(14); P.L. 95-588, § 103; P.L. 96-466, § 605(c)(2).)

§ 507. Disappearance

Where a veteran receiving pension under subchapter II of this chapter disappears, the Administrator may pay the pension otherwise payable to such veteran's spouse and children. In applying the provisions of this section, the Administrator may presume, without reports pursuant to section 506(a) of this title, that the status of the veteran at the time of disappearance, with respect to permanent and total disability, income, and net worth, continues unchanged. Payments made to a spouse or child under this section shall not exceed the amount to which each would be entitled if the veteran died of a non-service-connected disability.

(Added P.L. 89-467, § 1(a); amended P.L. 94-169, § 106(15).)

§ 508. Frequency of payment of pension benefits

(a) Except as provided under subsection (b) of this section, benefits under sections 521, 541, and 542 of this title shall be paid monthly.

(Added P.L. 95-588, § 104(a).)

(b) Under regulations which the Administrator shall prescribe, benefits under sections 521, 541, and 542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 per centum of the maximum annual rate payable to a veteran under section 521(b) of this title.

(Added P.L. 95-588, § 104(a).)

SUBCHAPTER II—VETERANS' PENSIONS

SERVICE PENSION

§ 511. Indian War veterans

(a) The Administrator shall pay to each veteran of the Indian Wars who meets the service requirements of this section a pension at the following monthly rate:

(1) $101.59; or

(2) $135.45 if the veteran is in need of regular aid and attendance.

(b) A veteran meets the service requirements of this section if such veteran served in one of the Indian Wars—

(1) for thirty days or more; or

(2) for the duration of such Indian War;

in any military organization, whether or not such service was the result of regular muster into the service of the United States, if such service was under the authority or by the approval of the United States or any State.

(Amended P.L. 94-169, § 106(16).)

(c)(1) Any veteran eligible for pension under this section shall, if such veteran so elects, be paid pension at the rates prescribed by section 521 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in paragraph (2).

(2) The Administrator shall pay each month to each veteran of the Indian Wars who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that provided by paragraph (2) of subsection (a) of this section, or (B) that which is payable to the veteran under section 521 of this title if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to paragraph (1) of this subsection. Each change in the amount of pension payment required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Added P.L. 86-670, § 1; amended P.L. 90-77, § 111(a); P.L. 94-169, § 106(16).)

§ 512. Spanish-American War veterans

(a)(1) The Administrator shall pay to each veteran of the Spanish-American War who meets the service requirements of this subsection a pension at the following monthly rate:

(A) $101.59; or

(B) $135.45 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for ninety days or more during the Spanish-American War;

(B) during the Spanish-American War and was discharged or released from such service for a service-connected disability; or

(C) for a period of ninety consecutive days or more and such period began or ended during the Spanish-American War.

(3)(A) Any veteran eligible for pension under this subsection shall, if such veteran so elects, be paid pension at the rates prescribed by section 521 of this title (except the rate provided under subsection (g) of such section), and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) The Administrator shall pay each month to each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (i) that provided by subparagraph (B) of subsection (a)(1) of this section, or (ii) that which is payable to the veteran under section 521 of this title as in effect on December 31, 1978, under regulations which the Administrator shall prescribe. Each change in the amount of pension payment required by this subparagraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Amended P.L. 86–670, § 2; P.L. 90–77, § 111(b); P.L. 94–169, § 106(17); P.L. 95–588, § 105.)

(b)(1) The Administrator shall pay to each veteran of the Spanish-American War who does not meet the service requirements of subsection (a), but who meets the service requirements of this subsection, a pension at the following monthly rate:

(A) $67.73; or

(B) $88.04 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for seventy days or more during the Spanish-American War; or

(B) for a period of seventy consecutive days or more and such period began or ended during the Spanish-American War.

(Amended P.L. 94–169, § 106(17).)

NON-SERVICE-CONNECTED DISABILITY PENSION

§ 521. Veterans of a period of war [1]

(a) The Administrator shall pay to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (j) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

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[1] Pursuant to section 3112 of this title, rates specified in this section and in sections 541 and 542 and the rates and income limitations specified in section 415 of this title are increased by the same percentage and effective on the same date (generally December 1 of each year) as Social Security benefits (under title II of the Social Security Act) are increased. The Veterans' Administration publishes these new rates in the Federal Register as amendments to sections 3.23–3.26 of title 38 of the Code of Federal Regulations. As of December 1, 1988, the annual rates specified in this section were increased as follows:

(1) Veterans permanently and totally disabled (subsecs. (b) and (c)): Veteran with no dependents, $6,463; veteran with one dependent, $8,466; and for each additional dependent, $1,098.

(2) Veterans in need of aid and attendance (subsec. (d)): Veteran with no dependents, $10,338; veteran with one dependent, $12,341; and for each additional dependent, $1,098.

(3) Veterans who are housebound (subsec. (e)): Veteran with no dependents, $7,899; veteran with one dependent, $9,902; and for each additional dependent, $1,098.

(4) Two veterans married to one another; combined rates (subsec. (f)): Neither veteran in need of aid and attendance or are housebound, $8,466; either veteran in need of aid and attendance, $12,341; both veterans in need of aid and attendance, $16,214; either veteran housebound, $9,902; both veterans housebound, $11,340; and one veteran housebound and one veteran in need of aid and attendance, $13,776. For each dependent child, $1,098.

(5) Increase for Mexican border period and World War I veterans (subsec. (g)), $1,461.

(Amended P.L. 86-211, § 3(a)(2); P.L. 90-77, § 202(a); P.L. 91-588, § 9(c)(1); P.L. 95-588, § 106(a).)

(b) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, and unless the veteran is entitled to pension at the rate provided by subsection (d)(1) or (e) of this section, pension shall be paid to the veteran at the annual rate of $3,550, reduced by the amount of the veteran's annual income.

(Added P.L. 86-211, § 3(a)(3); amended P.L. 88-664, § 3(a); P.L. 90-77, § 104(a); P.L. 90-275, § 1(a); P.L. 91-588, § 1(a); P.L. 92-198, § 1(a); P.L. 93-177, § 1(a); P.L. 93-527, § 2(1); P.L. 94-169, § 102(1); P.L. 94-432, § 202(1), (2); P.L. 95-204, § 101(1), (2); P.L. 95-588, § 106(a).)

(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or if there is a child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, pension shall be paid to the veteran at the annual rate of $4,651, unless the veteran is entitled to pension at the rate provided by subsection (d)(2), (e), or (f) of this section. If the veteran has two or more such family members, such annual rate shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

(Added P.L. 86-211, § 3(a)(3); amended P.L. 88-664, § 3(b); P.L. 90-77, § 104(b); P.L. 90-275, § 1(b); P.L. 91-588, § 1(b); P.L. 92-198, § 1(b); P.L. 93-177, § 1(b); P.L. 93-527, § 2(2); P.L. 94-169, § 102(1); P.L. 94-432, § 202(3), (4); P.L. 95-204, § 101(3), (4); P.L. 95-588, § 106(a).)

(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $5,680, reduced by the amount of the veteran's annual income.

(2) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (c) of this section shall be $6,781. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

(Added P.L. 86-211, § 3(a)(3); amended P.L. 88-664, § 5; P.L. 91-588, § 3(b)(1); P.L. 93-527, § 2(3); P.L. 94-169, § 102(2); P.L. 94-432, § 202(5); P.L. 95-204, § 101(5); P.L. 95-588, § 106(a).)

(e) If the veteran has a disability rated as permanent and total and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $4,340 and the annual rate of pension payable to the veteran under subsection (c) of this section shall be $5,441. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the annual income of such family members.

(Added P.L. 88-664, § 6(a); amended P.L. 90-77, § 104(c); P.L. 91-588, § 3(b)(2); P.L. 93-527, § 2(4); P.L. 94-169, § 102(3); P.L. 94-432, § 202(6); P.L. 95-204, § 101(6); P.L. 95-588, § 106(a).)

(f)(1) If two veterans are married to one another and each meets the disability and service requirements prescribed in subsections (a) and (j), respectively, of this section, the annual rate of pension payable to such veterans shall be a combined annual rate of $4,651.

(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $6,781. If both such veterans are in need of regular aid and attendance, such rate shall be $8,911.

(3) If either such veteran would be entitled (if not married to a veteran) to pension at the rate provided by subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $5,441. If both such veterans would be entitled (if not married to one another) to such rate, such rate shall be $6,231.

(4) If one such veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $7,571.

(5) The annual rate provided by paragraph (1), (2), (3), or (4) of this subsection, as appropriate, shall (A) be increased by $600 for each child of such veterans (or of either such veteran) who is in the custody of either or both such veterans or to whose support either such veteran is, or both such veterans are, reasonably contributing, and (B) be reduced by the amount of the annual income of both such veterans and, subject to subsection (h)(1) of this section, the annual income of each such child.

(Added P.L. 86-211, § 3(a)(3); amended P.L. 88-664, §§ 6(a), 7; P.L. 95-588, § 106(a).)

(g) The annual rate of pension payable under subsection (b), (c), (d), (e), or (f) of this section to any veteran who is a veteran of a period of war shall be increased by $800 if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law.

(Amended P.L. 87-101, § 1; P.L. 88-664, § 6(a); P.L. 90-77, § 202(b); P.L. 91-558, § 9(c)(2); P.L. 92-198, § 5(b); P.L. 94-169, § 106(18); P.L. 95-588, § 106(a).)

(h) For the purposes of this section:

(1) In determining the annual income of a veteran, if there is a child of the veteran who is in the custody of the veteran or to whose support the veteran is reasonably contributing, that portion of the annual income of the child that is reasonably available to or for the veteran shall be considered to be income of the veteran, unless in the judgement of the Administrator to do so would work a hardship on the veteran.

(2) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(Added P.L. 94-432, § 202(7); amended P.L. 95-588, § 106(a).)

(i) If the veteran is entitled under this section to pension on the basis of such veteran's own service and is also entitled to pension on the basis of any other person's service, the Administrator shall pay such veteran only the greater benefit.

(Added P.L. 95-588, § 106(a).)

(j) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

(1) for ninety days or more during a period of war;

(2) during a period of war and was discharged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

(Added P.L. 95-588, § 106(a).)

§ 522. Net worth limitation

(a) The Administrator shall deny or discontinue the payment of pension to a veteran under section 521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

(Amended P.L. 86-211, § 3(b); P.L. 95-588, § 107.)

(b) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.

(Added P.L. 95–588, § 107.)

§ 523. Combination of ratings

(a) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

(b) Where a veteran, by virtue of subsection (a), is found to be entitled to a pension under section 521 of this title, and is entitled to compensation for a service-connected disability, the Administrator shall pay such veteran the greater benefit.

(Amended P.L. 94–169, § 106(19).)

§ 524. Temporary program of vocational training for certain new pension recipients

(a)(1) Subject to paragraph (3) of this subsection, in the case of a veteran under the age of 50 who is awarded pension during the program period, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran's potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Administrator in order to make such determination, the Administrator shall suspend the veteran's pension for the duration of such failure.

(2) Subject to paragraph (3) of this subsection, if a veteran who is 50 years of age or older and is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period, applies for vocational training under this section and the Administrator makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (b) of this section, the veteran has a good potential for achieving employment, the Administrator shall provide the veteran with an evaluation in order to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Veterans' Administration employee trained in vocational counseling.

(3) Not more than 3,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.

(4) For the purposes of this section, the term "program period" means the period beginning on February 1, 1985, and ending on January 31, 1992.

(Added P.L. 98–543, § 301(a)(1); amended P.L. 99–576, § 703(b)(1); P.L. 100–227, § 202; P.L. 100–687, § 1303(a), (b).)

(b)(1) If the Administrator, based upon an evaluation under subsection (a) of this section, determines that the achievement of a vocational goal by a veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program under this subsection. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation of the kind described in section 1507 of this title.

(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of vocationally oriented services and assistance of the kind provided under chapter 31 of this title and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

(B) A vocational training program under this subsection—

(i) may not exceed 24 months unless, based on a determination by the Administrator that an extension is necessary in order for the veteran to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the veteran, the Administrator grants an extension for a period not to exceed 24 months;

(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment of the kind provided under chapter 39 of this title; and

(iii) may include a program of education at an institution of higher learning (as defined in sections 1652(b) and 1652(f), respectively, of this title) only in a case in which the Administrator determines that the program involved is predominantly vocational in content.

(3) When a veteran completes a vocational training program under this subsection, the Administrator may provide the veteran with counseling of the kind described in section 1504(a)(2) of this title, placement and postplacement services of the kind described in section 1504(a)(5) of this title, and training of the kind described in section 1504(a)(6) of this title during a period not to exceed 18 months beginning on the date of such completion.

(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) January 31, 1992, or (B) the end of a reasonable period of time, as determined by the Administrator, following either the evaluation of the veteran under subsection (a) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Administrator of such a reasonable period of time shall be made pursuant to regulations which the Administrator shall prescribe.

(Added P.L. 98-543, § 301(a)(1); amended P.L. 99-576, § 703(b)(1); P.L. 100-687, § 1303(b).)

(c) A veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the provisions of subsection (a) of section 525 of this title beginning at such time as the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b)(1) of that section) without regard to the date on which the veteran's entitlement to pension is terminated.

(Amended P.L. 99-576, § 703(b)(1).)

(d) Payments by the Administrator for education, training, and other services and assistance under subsection (b) of this section (other than the services of Veterans' Administration employees) shall be made from the Veterans' Administration appropriations account from which payments for pension are made.

(Added P.L. 98-543, § 301(a)(1).)

§ 525. Temporary protection of health-care eligibility

(a) In the case of a veteran whose entitlement to pension is terminated during the program period by reason of income from work or training, the veteran shall retain for a period of three years beginning on the date of such termination all eligibility for care and services under such chapter that the veteran would have had if the veteran's entitlement to pension had not been terminated. Care and services for which such a veteran retains eligibility include, when applicable, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under clauses (5) and (6) of section 612(i).

(Added P.L. 98-543, § 301(a)(1); amended P.L. 99-272, § 19011(d); P.L. 99-576, § 703(b)(2).)

(b) For the purposes of this section:

(1) The term "terminated by reason of income from work or training" means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

(2) The term "program period" means the period beginning on February 1, 1985, and ending on January 31, 1992.

(Amended P.L. 100-687, § 1303(c).)

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

WARS BEFORE WORLD WAR I

[§ 531. Repealed, P.L. 94-169, § 101(2).]

§ 532. Surviving spouses of Civil War veterans

(a) The Administrator shall pay to the surviving spouse of each Civil War veteran who met the service requirements of this section a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older;

unless such surviving spouse was the spouse of the veteran during such veteran's service in the Civil War, in which case the monthly rate shall be $75.

(Amended P.L. 90–77, § 105; P.L. 94–169, § 106(20).)

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(Amended P.L. 94–169, § 106(21).)

(c) A veteran met the service requirements of this section if such veteran served for ninety days or more in the active military or naval service during the Civil War, as heretofore defined under public laws administered by the Veterans' Administration, or if such veteran was discharged or released from such service upon a surgeon's certificate of disability.

(Amended P.L. 94–169, § 106(21).)

(d) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before June 27, 1905; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Amended P.L. 90–77, § 101(a); P.L. 94–169, § 106(22).)

§ 533. Children of Civil War veterans

Whenever there is no surviving spouse entitled to pension under section 532 of this title, the Administrator shall pay to the children of each Civil War veteran who met the service requirements of section 532 of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Amended P.L. 94–169, § 106(25).)

§ 534. Surviving spouses of Indian War veterans

(a) The Administrator shall pay to the surviving spouse of each Indian War veteran who met the service requirements of section 511 of this title a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older; unless such surviving spouse was the spouse of the veteran during such veteran's service in one of the Indian Wars, in which case the monthly rate shall be $75.

(Amended P.L. 90–77, § 105; P.L. 94–169, § 106(26).)

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(Amended P.L. 94–169, § 106(27).)

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before March 4, 1917; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Amended P.L. 90-77, § 101(a); P.L. 94-169, § 106(28).)

§ 535. Children of Indian War veterans

Whenever there is no surviving spouse entitled to pension under section 534 of this title, the Administrator shall pay to the children of each Indian War veteran who met the service requirements of section 511 of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Amended P.L. 94-169, § 106(31).)

§ 536. Surviving spouses of Spanish-American War veterans

(a) The Administrator shall pay to the surviving spouse of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of $70, unless such surviving spouse was the spouse of the veteran during such veteran's service in the Spanish-American War, in which case the monthly rate shall be $75.

(Amended P.L. 90-77, § 105; P.L. 94-169, § 106(32).)

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(Amended P.L. 94-169, § 106(33).)

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before January 1, 1938; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Amended P.L. 90-77, § 101(a); P.L. 94-169, § 106(33).)

(d)(1) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 541 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to surviving spouses of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.

(2) The Administrator shall pay each month to the surviving spouse of each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that which is payable to such surviving spouse under subsections (a) and (b) of this section as increased by section 544 of this title, as in effect on December 31, 1978; or (B) that which is payable under section 541 of this title, as in effect on December 31, 1978, as increased by such section 544, as in effect on such date, to a surviving spouse of a World War I veteran with the same annual income and corpus of estate. Each

change in the amount of pension required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Added P.L. 92-328, § 107; amended P.L. 94-169, § 106(34)-(36); P.L. 95-588, § 108.)

§ 537. Children of Spanish-American War veterans

Whenever there is no surviving spouse entitled to pension under section 536 of this title, the Administrator shall pay to the children of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Amended P.L. 94-169, § 106(39).)

MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, THE KOREAN CONFLICT, AND THE VIETNAM ERA

§ 541. Surviving spouses of veterans of a period of war [1]

(a) The Administrator shall pay to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

(Amended P.L. 86-211, § 4; P.L. 90-77, § 202(d); P.L. 91-588, § 9(d)(1); P.L. 94-169, § 101(2)(B); P.L. 95-588, § 109(a).)

(b) If no child of the veteran is in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $2,379, reduced by the amount of the surviving spouse's annual income.

(Added P.L. 86-211, § 4; amended P.L. 88-664, § 3(c); P.L. 90-77, § 106(a); P.L. 90-275, § 1(c); P.L. 91-588; § 1(c); P.L. 92-198, § 1(c); P.L. 93-177, § 1(c); P.L. 93-527, § 3(1); P.L. 94-169, § 103(1); P.L. 94-432, § 203(1), (2); P.L. 95-204, § 102(1), (2); P.L. 95-588, § 109(a).)

(c) If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $3,116. If the surviving spouse has custody of two or more such children, the annual pension rate shall be increased by

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[1] As explained in the footnote to section 421, above, the rates specified in this section were increased, as of December 1, 1988, as follows:

(1) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (subsecs. (b) and (c)): Surviving spouse alone, $4,331; surviving spouse and one child in his or her custody, $5,674; and for each additional child in his or her custody, $1,098.

(2) Surviving spouses in need of aid and attendance (subsec. (d)): Surviving spouse alone, $6,928; surviving spouse with one child in his or her custody, $8,267; and for each additional child in his or her custody, $1,098.

(3) Surviving spouses who are housebound (subsec. (e)): Surviving spouses alone, $5,295; surviving spouse and one child in his or her custody, $6,635; and for each additional child in his or her custody, $1,098.

$600 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

(Added P.L. 86-211, § 4; amended P.L. 88-664, § 3(d); P.L. 90-77, § 106(b); P.L. 90-275, § 1(d); P.L. 91-588; § 1(d); P.L. 92-198, § 1(d); P.L. 93-177, § 1(d); P.L. 93-527, § 3(2); P.L. 94-169, § 103(1); P.L. 94-432, § 203(3), (4); P.L. 95-204, § 102(3), (4); P.L. 95-588, § 109(a).)

(d)(1) If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $3,806, reduced by the amount of the surviving spouse's annual income.

(2) If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $4,543. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

(Added P.L. 86-211, § 4; amended P.L. 90-77, § 106(c); P.L. 92-198, § 1(e); P.L. 93-177, § 2; P.L. 93-527, § 3(3); P.L. 94-169, § 103(2); P.L. 94-432, § 203(5); P.L. 95-204, § 102(5); P.L. 95-588, § 109(a).)

(e)(1) If the surviving spouse is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such surviving spouse under subsection (b) of this section shall be $2,908 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $3,645. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the income of any child of the veteran for whom the surviving spouse is receiving increased pension.

(2) For purposes of paragraph (1) of this subsection, the requirement of "permanently housebound" shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime.

(Amended P.L. 86-211, § 4; P.L. 90-77, §§ 101(a), 202(e); P.L. 91-588, § 9(d)(2); P.L. 94-169, §§ 101(2)(C), 106(40); P.L. 95-588, § 109(a).)

(f) No pension shall be paid under this section to a surviving spouse of a veteran unless the spouse was married to the veteran—

(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (C) February 1, 1965, in the case of a surviving

spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Added P.L. 93-527, § 3(4); amended P.L. 95-588, § 109(a).)

(g) In determining the annual income of a surviving spouse for the purposes of this section, if there is a child of the veteran in the custody of the surviving spouse, that portion of the annual income of the child that is reasonably available to or for the surviving spouse shall be considered to be income of the surviving spouse, unless in the judgement of the Administrator to do so would work a hardship on the surviving spouse.

(Added P.L. 95-588, § 109(a).)

(h) As used in this section and section 542 of this title, the term "veteran" includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.

(Added P.L. 95-588, § 109(a).)

§ 542. Children of veterans of a period of war [1]

The Administrator shall pay to each child (1) who is the child of a deceased veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, and (2) who is not in the custody of a surviving spouse eligible for pension under section 541 of this title, pension at the annual rate of $600, as increased from time to time under section 3112 of this title and reduced by the amount of such child's annual income; or, if such child is residing with a person who is legally responsible for such child's support, at an annual rate equal to the amount by which the appropriate annual rate provided under section 541(c) of this title exceeds the sum of the annual income of such child and such person, but in no event may such annual rate of pension exceed the amount by which $600, as increased from time to time under section 3112 of this title, exceeds the annual income of such child. The appropriate annual rate under such section 541(c) for the purposes of the preceding sentence shall be determined in accordance with regulations which the Administrator shall prescribe.

(Amended P.L. 86-211, § 4; P.L. 88-664, § 4; P.L. 90-77, §§ 107, 202(g); P.L. 91-588, § 9(e)(1); P.L. 92-198, § 1(f); P.L. 93-177, § 3; P.L. 93-527, § 4(1); P.L. 94-169, §§ 101(1)(D), 104(1); P.L. 94-432, § 204(1); P.L. 95-204, § 103(1); P.L. 95-588, § 110(a).)

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[1] As explained in the footnote to section 421, the rates specified in this section were increased, as of December 1, 1988, to $1,098.

§ 543. Net worth limitation

(a)(1) The Administrator shall deny or discontinue payment of pension to a surviving spouse under section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the income of the surviving spouse and the income of any child from whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of such estate be consumed for the surviving spouse's maintenance.

(2) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

(Added P.L. 86-211, § 4; amended P.L. 94-169, § 101(2)(E); P.L. 95-588, § 111.)

(b) The Administrator shall deny or discontinue payment of pension to a child under section 542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estate be consumed for the child's maintenance.

(Added P.L. 95-588, § 111.)

[§ 544. Repealed P.L. 95-588, § 112(a)(1).]

SUBCHAPTER IV—ARMY, NAVY, AIR FORCE, AND COAST GUARD MEDAL OF HONOR ROLL

§ 560. Medal of Honor Roll; persons eligible

(a) There shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department of Transportation, respectively, a roll designated as the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll".

(Amended P.L. 88-77, § 5(1); P.L. 91-24, § 5.)

(b) Upon written application to the Secretary concerned, the Secretary shall enter and record on such roll the name of each surviving person who has served on active duty in the armed forces of the United States and who has been awarded a Medal of Honor for distinguishing such person conspicuously by gallantry and intrepidity at the risk of such person's life above and beyond the call of duty while so serving.

(Amended P.L. 87-138, § 1(a); P.L. 88-77, § 5(1); P.L. 88-651; P.L. 89-311, § 4; P.L. 94-169, § 106(41).)

(c) Applications for entry on such roll shall be made in the form and under regulations prescribed by the Secretary concerned, and shall indicate whether or not the applicant desires to receive the special pension provided by section 562 of this title. Proper blanks and instructions shall be furnished by the Secretary concerned, without charge upon the request of any person claiming the benefits of this subchapter.

(Amended P.L. 87-138, § 1(b).)

§ 561. Certificate

(a) The Secretary concerned shall determine whether or not each applicant is entitled to have such person's name entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll. If the official award of the Medal of Honor to the applicant, or the official notice to such person thereof, shows that the Medal of Honor was awarded to the applicant for an act described in section 560 of this title, such award or notice shall be sufficient to entitle the applicant to have such person's name entered on such roll without further investigation; otherwise all official correspondence, orders, reports, recommendations, requests, and other evidence on file in any public office or department shall be considered.

(Amended P.L. 87-138, § 2(a); P.L. 88-77, § 5(2); P.L. 94-169, § 106(42).)

(b) Each person whose name is entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll shall be furnished a certificate of service and of the act of heroism, gallantry, bravery, or intrepidity for which the Medal of Honor was awarded, of enrollment on such roll, and, if such person has indicated such person's desire to receive the special pension provided by section 562 of this title, of such person's right to such special pension.

(Amended P.L. 87-138, § 2(a); P.L. 88-77, § 5(2); P.L. 94-169, § 106(42).)

(c) The Secretary concerned shall deliver to the Administrator a certified copy of each certificate issued under subsection (b) in which the right of the person named in the certificate to the special pension provided by section 562 of this title is set forth. Such copy shall authorize the Administrator to pay such special pension to the person named in the certificate.

(Amended P.L. 87-138, § 2(a); P.L. 94-169, § 106(43).)

§ 562. Special provisions relating to pension

(a) The Administrator shall pay monthly to each person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll, and a copy of whose certificate has been delivered to the Administrator under subsection (c) of section 561 of this title, a special pension at the rate of $200, beginning as of the date of application therefore under section 560 of this title.

(Amended P.L. 87-138, § 3; P.L. 88-77, § 5(2); P.L. 94-169, § 106(44); P.L. 95-479, § 302.)

(b) The receipt of special pension shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension shall be paid in addition to all other payments under laws of the United States.

(Amended P.L. 94–169, § 106(45).)

(c) Special pension shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

(d) If any person has been awarded more than one Medal of Honor, such person shall not receive more than one special pension.

(Amended P.L. 94–169, § 106(45).)

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER I—GENERAL

§ 601. Definitions

For the purposes of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor.

(Amended P.L. 88-481.)

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.

(Amended P.L. 90-612, § 2; P.L. 93-82, § 101(a); P.L. 94-581, § 202(b); P.L. 95-520, § 5; P.L. 96-22, §§ 102(c)(1), 201(a); P.L. 96-151, § 202; P.L. 97-72, § 101; P.L. 97-251, § 4; P.L. 98-105; P.L. 98-528, § 103(a); P.L. 99-108, § 2; P.L. 99-166, § 102(a); P.L. 99-272, § 1901(a); P.L. 100-322, § 131.)

(5) The term "hospital care" includes—

(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title;

(B) such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and

(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) travel and incidental expenses for such dependent or survivor under the terms and conditions set forth in section 111 of this title.

(Amended P.L. 93-82, § 101(b); P.L. 94-581, §§ 102(1), 202(33); P.L. 96-151, § 201(b)(1)(2).)

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, dental services and appliances as described in sections 610 and 612 of this title, optometric and podiatric services (in the case of a person otherwise receiving care or services under this chapter), preventive health-care services as defined in section 662 of this title, and (except under the conditions described in section 612(f)(1)(A)(i) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

(B)(i) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

(I) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

(II) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(A)(ii) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title); and

(ii) in the case of an individual who was a recipient of services under subclause (i) of this clause at the time of—

(I) the unexpected death of the veteran; or

(II) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Administrator,

such counseling services, for a limited period, as the Administrator determines to be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.

For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.

(Amended P.L. 94-581, § 102(2); P.L. 96-22, § 102(c)(2); P.L. 96-151, § 201(b)(3); P.L. 98-160, § 106(a); P.L. 99-272, § 19011(d); P.L. 99-576, § 203.)

(7) The term "domiciliary care" includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.

(Amended P.L. 94-581, § 102(3).)

(8) The term "rehabilitative services" means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

(Added P.L. 94-581, § 102(4).)

(9) The term "non-Veterans' Administration facilities" means facilities other than Veterans' Administration facilities. (Added P.L. 99-272, § 19012(a).)

§ 602. Presumption relating to psychosis

For the purposes of this chapter, any veteran of World War II, the Korean conflict, or the Vietnam era who developed an active psychosis (1) within two years after discharge or release from the active military, naval or air service, and (2) before July 26, 1949, in the case of a veteran of World War II, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam era veteran, shall be deemed to have incurred such disability in the active military, naval, or air service.

(Amended P.L. 90-77, § 203(a); P.L. 97-295, § 4(16); P.L. 99-576, § 701(20).)

§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to furnish any of the following:

(1) Hospital care or medical services to a veteran for the treatment of—

(A) a service-connected disability; or

(B) a disability for which a veteran was discharged or released from the active military, naval, or air service.

(2) Medical services for the treatment of any disability of—

(A) a veteran described in section 612(a)(1)(B) of this title;

(B) a veteran described in paragraph (2), (3), or (4) of section 612(a) of this title, for a purpose described in section 612(a)(5)(B) of this title; or

(C) a veteran described in section 612(a)(3) (other than a veteran who is a former prisoner of war) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration facilities.

(3) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility or nursing home care under section 620 of this title until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration facility.

(4) Hospital care for women veterans.

(5) Hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico to the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services. [1]

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[1] Sec. 102(b) of P.L. 99-166 provides:

PHASE-OUT OF SPECIAL AUTHORITY IN PUERTO RICO.—(1) Effective on October 1, 1988, such section is amended—

(A) by inserting "(other than the Commonwealth of Puerto Rico)" after "in a State"; and

(B) by striking out "contiguous States" the second place it appears and all that follows through "medical services;" and inserting in lieu thereof "contiguous States and the Commonwealth of Puerto Rico;".

(2) During fiscal year 1986, the obligations incurred for Puerto Rico contract care may not exceed 85 percent of the obligations incurred for such care for fiscal year 1985.

(3) During fiscal year 1987, the obligations incurred for Puerto Rico contract care may not exceed 50 percent of the obligations incurred for such care for fiscal year 1985.

(4) During fiscal year 1988, the obligations incurred for Puerto Rico contract care may not exceed 25 percent of the obligations incurred for such care for fiscal year 1985.

(5) For the purpose of this subsection, the term "obligations incurred for Puerto Rico contract care" means the total obligations incurred during a fiscal year for medical services for veterans residing in the Commonwealth of Puerto Rico under the Administrator's authority to contract

Continued

(6) Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital admission.

(7) Outpatient dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.

(Amended P.L. 100-322, §§ 101(e), 104(a),(b); P.L. 100-687, § 1503(a)(1).)

(b) In the case of any veteran for whom the Administrator contracts to furnish care or services in a non-Veterans' Administration facility pursuant to a provision of subsection (a) of this section, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.

(Added P.L. 99-272, § 19012(b).)

(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.

(Added P.L. 100-322, § 112(a).)

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 610. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) The Administrator shall furnish hospital care, and may furnish nursing home care, which the Administrator determines is needed—

(A) to any veteran for a service-connected disability;

(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

(C) to a veteran who is in receipt of, or who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

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for hospital care or medical services under clause (v) of section 601(4)(C) of title 38, United States Code, in the Commonwealth of Puerto Rico.

(E) to any other veteran who has a service-connected disability, for any disability;

(F) to a veteran who is a former prisoner of war, for any disability;

(G) to a veteran exposed to a toxic substance or radiation, as provided in subsection (e) of this section;

(H) to a veteran of the Spanish-American War, the Mexican border period, or World War I, for any disability; and

(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

(2)(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title.

(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

(i) to the extent that resources and facilities are otherwise available; and

(ii) subject to the provisions of subsection (f) of this section.

(3) In addition to furnishing hospital care and nursing home care described in paragraphs (1) and (2) of this subsection through Veterans' Administration facilities, the Administrator may furnish such hospital care in accordance with section 603 of this title and may furnish such nursing home care as authorized under section 620 of this title.

(Amended P.L. 87-583, § 1; P.L. 89-358, § 8; P.L. 91-500, § 4; P.L. 93-82, § 102(1), (2); P.L. 94-581, §§ 202(d)(2), 210(1)(A), (B); P.L. 97-37, § 5(a); P.L. 97-72, § 102(a)(1); P.L. 98-160, § 701; P.L. 99-272, § 19011(a); P.L. 99-576.)

(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(B) Any veteran who the Administrator determines has no adequate means of support.

(Amended P.L. 89-358, § 8; P.L. 94-581, §§ 202(d)(3), 210(1) (B), (C); P.L. 100-322, § 102(a).)

(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran. The Administrator may furnish dental services and treatment, and related dental appliances, under this subsection for a non-service-connected dental condition or disability of a veteran only (1) to the extent that the Administrator determines that the dental facilities of the Veterans' Administration to be used to furnish such services, treatment, or appliances are not needed to furnish services, treatment, or appliances for dental conditions or disabilities described in section 612(b) of this title, or (2) if (A) such non-service-connected dental condition or disability is associated with or aggravating a disability for which such veteran is receiving hospital care, or (B) a compelling medical reason or a dental emergency requires furnishing dental services, treatment, or appliances (excluding the furnishing of such services, treatment, or appliances of a routine nature) to such veteran during the period of hospitalization under this section.

(Added P.L. 89-785, § 304; amended P.L. 93-82, § 102(3); P.L. 94-581, § 210(a)(1)(B); P.L. 96-22, § 102(a).)

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Administrator except as provided in section 620 of this title.

(Added P.L. 93-82, § 102(4); P.L. 94-581, § 202(d)(4).)

(e)(1)(A) Subject to paragraphs (2) and (3) of this subsection, a veteran—

(i) who served on active duty in the Republic of Vietnam during the Vietnam era, and

(ii) who the Administrator finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Administrator finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(2) Hospital and nursing home care may not be provided under subsection (a)(1)(G) of this section with respect to a disability that is found, in accordance with guidelines issued by the Chief Medical Director, to have resulted from a cause other than an exposure described in subparagraph (A) or (B) of paragraph (1) of this subsection.

(3) Hospital and nursing home care and medical services may not be provided under or by virtue of subsection (a)(1)(G) of this section after December 31, 1990.

(Added P.L. 97-72, § 102(a)(2); amended P.L. 99-166, § 103; P.L. 99-272, § 19011(d); P.L. 100-687, § 1202.)

(f)(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

(A) the cost of furnishing such care, as determined by the Administrator, and

(B) the amount determined under paragraph (3) of this subsection.

(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is—

(i) the amount of the inpatient Medicare deductible, plus

(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

(B) In the case of nursing home care furnished during any 365-days period, the amount referred to in paragraph (2)(B) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under section 612(f) of this title to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under section 612(f)(4) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

(F) A veteran may not be required to make a payment under this subsection or section 612(f) of this title for any days of care in excess of 360 days of care during any 365-calendar-day period.

(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(5) For the purposes of this subsection, the term "inpatient Medicare deductible" means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1895e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

(Added P.L. 99-272, § 19011(a); amended P.L. 99-576, § 237(b)(1).)

(g) Nothing in this section requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

(Added P.L. 99-272, § 19011(a).)

§ 611. Care during examinations and in emergencies

(a) The Administrator may furnish hospital care incident to physical examinations where such examinations are necessary in carrying out the provisions of other laws administered by the Administrator.

(Amended P.L. 94-581, § 210(a)(2)(A).)

(b) The Administrator may furnish hospital care or medical services as a humanitarian service in emergency cases, but the Administrator shall charge for such care at rates prescribed by the Administrator.

(Amended P.L. 94-581, §§ 202(e)(2), 210(a)(2)(B).)

(c)(1) The Administrator may contract with any organization named in, or approved by the Administrator under section 3402 of this title to provide for the furnishing by the Administrator, on a reimbursable basis (as prescribed by the Administrator), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.

(2) The authority of the Administrator to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Added P.L. 96-22, § 202; amended P.L. 96-128, § 501(a).)

§ 612. Eligibility for outpatient services

(a)(1) Except as provided in subsection (b) of this section, the Administrator shall furnish on an ambulatory or outpatient basis such medical services as the Administrator determines are needed—

(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service);

(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more; and

(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).

(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

(A) to any veteran who is a former prisoner of war;

(B) to any veteran of the Mexican border period or of World War I; and

(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.

(6) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

(Amended P.L. 87-583, § 2; P.L. 94-581, §§ 103(a)(1), 210(a)(3)(A); P.L. 97-295, § 4(17)(A), (B); P.L. 99-272, § 19011(b); P.L. 99-576, § 202; P.L. 100-322, § 101(a),(b),(h).)

(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) which is service-connected and compensable in degree;

(B) which is service-connected, but not compensable in degree, but only if—

(i) the dental condition or disability is shown to have been in existence at the time of the veteran's discharge or release from active military, naval, or air service;

(ii) the veteran had served on active duty for a period of not less than 180 days immediately before such discharge or release;

(iii) application for treatment is made within 90 days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within 90 days after the date of such veteran's prior discharge or release from such service, application may be made within 90 days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within 90 days after the date of correction; and

(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed;

(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(E) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(F) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than 90 days is suffering; or

(G) from which a veteran who has a service-connected disability rated as total is suffering.

(2) The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days provide to such member a written explanation of the provisions of clause (B) of paragraph (1) of this subsection and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).

(3) The total amount which the Administrator may expend for furnishings, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Administrator has contracted under clause (1), (2), or (5) of section 603(a) of this title may not exceed $500 unless the Administrator determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Veterans' Administration (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.

(4)(A) Except as provided in subparagraph (B) of this paragraph, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection) and section 603 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 603 of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget, the Administrator specifies with respect to contract dental care described in such subparagraph—

(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

(iii) the amount included in such Budget for such care.

(Amended P.L. 87-377, § 1; P.L. 88-430; P.L. 94-581, § 103(a)(2); P.L. 96-22, § 102(b)(1); P.L. 96-151, § 203; P.L. 97-35, § 2002(a); P.L. 97-37, § 3(b); P.L. 97-72, § 103(a); P.L. 99-272, § 19012(c); P.L. 99-576, § 231(b); P.L. 100-322, §§ 101(e),(f),(g), 106.)

(c) Dental services and related appliances for a dental condition or disability described in paragraph (1)(B) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(Amended P.L. 97-72, § 103(b)(1).)

(d) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Administrator under this section may be procured by the Administrator either by purchase or by manufacture, whichever the Administrator determines may be advantageous and reasonably necessary.

(e) Repealed. P.L. 100-322, § 101(g)(1)(B).)

(Amended P.L. 94-581, § 210(a)(3)(B).)

(f)(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title) to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under paragraph (2) of this subsection.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

(3) A veteran may not be required to make a payment under this subsection for services furnished under subsection (a) of this section during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this subsection for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

(4) A veteran may not be required to make a payment under this subsection if such payment would result in the veteran paying,

under this subsection and section 610(f) of this title, a total amount greater than four times the amount of the inpatient Medicare deductible for care or services, or any combination thereof, furnished under this chapter during any 365-calendar day period.

(5) This subsection does not apply with respect to home health services under section 617 of this title to the extent that such services are for improvements and structural alterations.

(6) For the purposes of this subsection, the term "inpatient Medicare deductible" means the amount of the inpatient hospital deducible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

(7) Amounts collected or received by the Veterans' Administration under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(Added P.L. 86-639, § 1; amended P.L. 91-102; P.L. 93-82, § 103(a); P.L. 94-581, §§ 103(a)(3)-(7), 202(f)(2); P.L. 96-22, § 102(b)(2); P.L. 97-37, § 5(b), P.L. 97-72, § 103(b)(2); P.L. 97-295, § 4(17)(C); P.L. 99-166, § 104; P.L. 99-272, § 19011(b); P.L. 99-576, §§ 202, 237(b)(2); P.L. 100-322, § 101(e).)

(h) The Administrator shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury sufferred by such veteran. The Administrator shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

(Added P.L. 88-664, § 8; amended P.L. 90-77, § 203(b); P.L. 91-500, § 3; P.L. 91-588, §§ 4, 9(f); P.L. 94-581, § 210(a)(3)(D); P.L. 95-588, § 302; P.L. 97-295, § 4(17)(D).)

(i) The Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.

(Added P.L. 94-581, § 103(a)(8); amended P.L. 96-22, § 101; P.L. 97-37, § 5(c)(1); P.L. 97-72, § 103(b)(1); P.L. 97-295, § 4(17)(E); P.L. 99-272, § 19011(b); P.L. 100-322, § 101(c).)

(j) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility. Any such immunization shall be made using vaccine furnished by the Secretary at no cost to the Veterans' Administration. For such purpose, notwithstanding any other provision of law, the Secretary may provide such vaccine to the Veterans' Administration at no cost. Section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.

(Added P.L. 94-581, § 103(a)(8); amended P.L. 97-295, § 4(95)(A); P.L. 99-576, § 702(5).)

§ 612A. Eligibility for readjustment counseling and related mental health services [1]

(a) Upon the request of any veteran who served on active duty during the Vietnam era, the Administrator shall, within the limits of Veterans' Administration facilities, furnish counseling to such veteran to assist such veteran in readjusting to civilian life. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

(Added P.L. 96-22, § 103(a)(1); amended P.L. 97-72, § 104(a)(1); P.L. 98-160, § 101(a).)

(b)(1) If, on the basis of the assessment furnished under subsection (a) of this section, a physician or psychologist employed by the Veterans' Administration (or, in areas where no such physician or psychologist is available, a physician or psychologist carrying out such function under a contract or fee arrangement with the Administrator) determines that the provision of mental health services to such veteran is necessary to facilitate the successful readjustment of the veteran to civilian life, such veteran shall, within the limits of Veterans' Administration facilities, be furnished such services on an outpatient basis under the conditions specified in paragraph (1)(A)(ii) of section 612(f) of this title. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be considered to have been furnished by the Veterans' Administration as a part of hospital care. Any hospital care and other medical services considered necessary on the basis of the assessment furnished under subsection (a) of this section shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including the eligibility criteria set forth in section 611(b) of this title).

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[1] Section 103(b) of Public Law 96-22 provides:

"(b) In the event of a declaration of war by the Congress after the date of the enactment of this Act, the Administrator of Veterans' Affairs, not later than six months after the date of such declaration, shall determine and recommend to the Congress whether eligibility for the readjustment counseling and related mental health services provided for in section 612A of title 38, United States Code (as added by subsection (a) of this section) should be extended to the veterans of such war."

(2) Mental health services furnished under paragraph (1) of this subsection may, if determined to be essential to the effective treatment and readjustment of the veteran, include such consultation, counseling, training, services, and expenses as are described in section 601(6)(B) of this title.

(Added P.L. 96-22, § 103(a)(1); amended P.L. 99-272, § 19011(d).)

(c) Upon receipt of a request for counseling under this section from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such counseling, the Administrator shall—

(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside the Veterans' Administration; and

(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

(Added P.L. 96-22, § 103(a)(1).)

(d) The Chief Medical Director may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 1685 of this title) in initial intake and screening activities.

(Added P.L. 96-22, § 103(a)(1); amended P.L. 96-128, § 501(b).)

(e)(1) In furnishing counseling and related mental health services under subsections (a) and (b) of this section, the Administrator shall have available the same authority to enter into contracts with private facilities that is available to the Administrator (under sections 612(a)(1)(B) and 603(a)(2) of this title) in furnishing medical services to veterans suffering from total service-connected disabilities.

(2) Before furnishing counseling or related mental health services described in subsections (a) and (b) of this section through a contract facility, as authorized by this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which the counseling or services are to be furnished.

(3) The authority of the Administrator to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Added P.L. 96-22, § 103(a)(1); amended P.L. 99-272, §§ 19011(d), 19012(c).)

(f) The Administrator, in cooperation with the Secretary of Defense, shall take such action as the Administrator considers appropriate to notify veterans who may be eligible for assistance under this section of such potential eligibility.

(Added P.L. 96-22, § 103(a)(1).)

(g)(1)(A) Except as provided in subparagraph (C) of this paragraph, the Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.

(C) The Administrator may relocate a center in existence on January 1, 1988, without regard to the national plan (including any revision to such plan) if such relocation is to a new location away from a Veterans' Administration general health-care facility when such relocation is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date on which the Administrator notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of the proposed relocation, of the circumstances making it necessary, and of the reason for the selection of the new site for the center.

(2)(A) Not later than April 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's evaluation of the effectiveness in helping to meet the readjustment needs of veterans who served on active duty during the Vietnam era of the readjustment counseling and mental health services provided pursuant to this section (and of outreach efforts with respect to such counseling and services). Such report shall give particular attention, in light of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160) to the provision of such counseling and services to veterans with post-traumatic stress disorder and to the diagnosis and treatment of such disorder.

(B) The report required by subparagraph (A) of this paragraph shall include—

(i) the opinion of the Administrator with respect to (I) the extent to which the readjustment needs of veterans who served on active duty during the Vietnam era remain unmet, and (II) the extent to which the provision of readjustment counseling services under this section in centers is needed to meet such needs; and

(ii) in light of the opinion submitted pursuant to clause (i) of this subparagraph, such recommendations for amendments to this subsection and for other legislative and administrative action as the Administrator considers appropriate.

(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

(B) The plan shall include the Administrator's evaluation as to how, ~~in~~ light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

(ii) The distance between the center and the general Veterans' Administration facility.

(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

(D) For the purposes of this paragraph, the term "general Veterans' Administration facility" means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.

(Added by P.L. 97-72, § 104(b); amended P.L. 98-160, § 101(b); P.L. 99-166, § 106; P.L. 99-576, § 204 (a), (b), (c); P.L. 100-322, § 107(a), (b), (c), (e); P.L. 100-687, § 1501(a).)

(h)(1) During the period beginning on January 1, 1986, and ending on September 30, 1988, the Administrator shall conduct a pilot program to provide and coordinate the provision of services described in paragraph (2) of this subsection. The pilot program shall be carried out in order to evaluate the effectiveness, feasibility, and desirability of providing veterans eligible for readjustment counseling under this section with additional services through facilities furnishing such counseling.

(2) The services referred to in paragraph (1) of this subsection are—

(A) counseling with respect to, and assistance in applying for, all benefits and services under laws administered by the Veterans' Administration for which veterans participating in the pilot program may be eligible;

(B) employment counseling, training, placement, and related services described in sections 2003 and 2003A of this title or provided under any other law administered by the Secretary of Labor;

(C) initial intake and referral services with respect to disabilities related to alcohol or drug dependence or abuse and follow-up services for veterans who have received treatment for such disabilities; and

(D) assistance in coordinating the provision of benefits and services to veterans participating in the pilot program with respect to such veterans' receipt of—

(i) services provided under the pilot program; and

(ii) other benefits and services provided under laws administered by the Veterans' Administration, the Secretary of Labor, or any other Federal agency or official.

(3)(A) In order to carry out the pilot program, the Administrator shall—

(i) designate as sites for demonstration projects 10 facilities which on December 3, 1985, are providing readjustment counseling under this section; and

(ii) assign such staff and other resources to such facilities as are necessary to enable such facilities to provide the services referred to in subparagraphs (A) and (C) of paragraph (2) of this subsection.

(B) Facilities designated under subparagraph (A) of this paragraph shall be known as Vietnam Veteran Resource Centers (hereinafter in this subsection referred to as "Resource Centers").

(4) The Administrator—

(A) shall be responsible for coordinating the assignment and use of employees, on full- or part-time bases, as appropriate, in each Resource Center; and

(B) shall, in carrying out that responsibility, make maximum feasible use of the Veterans' Administration employees who are providing services at each facility on the date it is designated as a Resource Center under this subsection.

(5) The Secretary of Labor shall provide for the assignment to each Resource Center, on full- or part-time bases, as the Secretary considers appropriate, of disabled veterans' outreach specialists appointed under section 2003A of this title or employees on the staffs of local employment service offices who are assigned to perform services under section 2004 of this title.

(6) Not later than April 1, 1987, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program during its first 15 months of operation. This report shall include—

(A) the Administrator's assessment of—

(i) the effectiveness of the pilot program in providing and coordinating the provision of the services described in paragraph (2) of this subsection and counseling and services furnished under subsections (a) and (b) of this section; and

(ii) the appropriateness of the use of the personnel assigned to the program;

(B) a description of any administrative action that the Administrator plans to take generally to increase the coordination of the provision of such services to veterans eligible for readjustment counseling services under this section;

(C) any recommendations that the Administrator considers appropriate; and

(D) a comparison of such assessment, plans, and recommendations with the evaluation of and the recommendations relating to the readjustment counseling program included in the report required by subsection (g)(2) of this section.

(7) Not later than January 1, 1989, the Administrator shall submit to such Committees a final report on the pilot program. The report shall include—

(A) updates of all information provided in the report submitted pursuant to paragraph (6) of this subsection; and

(B) the Administrator's final assessment of the pilot program based on 33 months of operation.

(Added P.L. 99-166, § 105; amended P.L. 99-576, § 702(6); P.L. 100-322, § 107(e).)

(i) For the purposes of this section:

(1) The term "center" means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

(2) The term "Veterans' Administration general health-care facility" means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.

(Added P.L. 100-322, § 107(d).)

§ 612B. Counseling for former prisoners of war

The Administrator may establish a program under which, upon the request of a veteran who is a former prisoner of war, the Administrator, within the limits of Veterans' Administration facilities, furnishes counseling to such veteran to assist such veteran in overcoming the psychological effects of the veteran's detention or internment as a prisoner of war.

(Added P.L. 99-166, § 107(a).)

§ 613. Medical care for survivors and dependents of certain veterans

(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability,

(2) the surviving spouse or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability, and

(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

(Added P.L. 93-82, § 103(b); amended P.L. 94-581, § 104; P.L. 96-151, § 205(a)(1).)

(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, the Secretary enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Administrator shall prescribe for such insurance, medical service, or health plans as the Administrator deems appropriate.

In cases in which Veterans' Administration medical facilities are equipped to provide the care and treatment, the Administrator is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

(Added P.L. 93-82, § 103(b); amended P.L. 94-581, § 210(a)(4); P.L. 97-72, § 105.)

(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disabling illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this section until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first.

(Added P.L. 96-151, § 205(a)(2).)

(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.

(Added P.L. 97-251, § 5(a).)

§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) to and from such veteran's home to such hospital or training institution.

(Amended P.L. 93-82, § 103(b); P.L. 94-581, § 210(a)(5)(A); P.L. 96-151, § 201(c)(1).)

(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and may pay travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.

(Amended P.L. 93-82, § 103(b); P.L. 94-581, § 210(a)(5)(B); P.L. 96-151, § 201(c)(2).)

§ 615. Tobacco for hospitalized veterans

The Administrator may furnish tobacco to veterans receiving hospital or domiciliary care.

§ 616. Hospital care by other agencies of the United States

When so specified in an appropriation or other Act, the Administrator may make allotments and transfers to the Departments of Health and Human Services (Public Health Service), the Army, Navy, Air Force, or Interior, for disbursement by them under the various headings of their appropriations, of such amounts as are necessary for the care and treatment of veterans entitled to hospitalization from the Veterans' Administration under this chapter. The amounts to be charged the Veterans' Administration for care and treatment of veterans in hospitals shall be calculated on the basis of a per diem rate approved by the Office of Management and Budget.

(Amended P.L. 94-581, § 202(g); P.L. 97-295, § 4(95)(A).)

§ 617. Home health services; invalid lifts and other devices

(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities.

The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.

(3) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.

(Added P.L. 100-322, § 101(d).)

(b) The Administrator may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under section 314(l)-(p) of this title (or the comparable rates provided pursuant to section 334 of this title), or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

(Added P.L. 86-211, § 5; amended P.L. 88-450, § 6(a); P.L. 90-77, § 109; P.L. 90-493, § 3(a); P.L. 97-295, § 4(18); P.L. 98-528, § 107; P.L. 100-322, § 101(d).)

(c) The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.

(Amended P.L. 100-322, § 101(d).)

§ 618. Therapeutic and rehabilitative activities

(a) In providing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may use the services of patients and members in Veterans' Administration health care facilities for therapeutic and rehabilitative purposes. Such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose. The Administrator shall prescribe the conditions for the use of such services.

(Added P.L. 87-574, § 2(1); amended P.L. 94-581, § 105(a)(1), (2); P.L. 99-576, § 205.)

(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into contractual arrangements with private industry or other sources outside the Veterans' Administration to provide for therapeutic work for patients and members in Veterans' Administration health care facilities.

(2) Notwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to pro-

vide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

(Added P.L. 94-581, § 105(a)(3); amended P.L. 99-576, § 205.)

(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the "fund") for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

(2) All funds received by the Veterans' Administration under contractual arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall distribute out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

(3) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity rates of distribution) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

(Added P.L. 94-581, § 105(a)(3); amended P.L. 99-576, § 205.)

(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

(Added P.L. 94-581, § 105(a)(3).)

(e) The Administrator shall prescribe regulations to ensure that the priorities set forth in section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.

(Added P.L. 94-581, § 105(a)(3).)

(f)(1) Neither a veteran's participation in an activity carried out under this section nor a veteran's receipt of a distribution as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

(2) A distribution of funds made under this section shall be considered for purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.

(Added P.L. 98-543, § 303; amended P.L. 99-576, § 205.)

§ 619. Repair or replacement of certain prosthetic and other appliances

The Administrator may repair or replace any artificial limb, truss, brace, hearing aid, spectacles, or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.

(Added P.L. 87-850, § 1(a); amended P.L. 94-581, § 210(a)(6).)

§ 620. Transfers for nursing home care; adult day health care

(a)(1) Subject to subsection (b) of this section, the Administrator may transfer to a non-Veterans' Administration nursing home, for care at the expense of the United States—

(A) a veteran

(i) who has been furnished hospital care, nursing home care, or domiciliary care by the Administrator in facility under the direct jurisdiction of the Administrator; and

(ii) who the Administrator determines—

(I) requires a protracted period of nursing home care which can be furnished in the non-Veterans' Administration nursing home; and

(II) in the case of a veteran who has been furnished hospital care in a facility under the direct jurisdiction of the Administrator, has received maximum benefits from such care; and

(B) a member of the Armed Forces—

(i) who has been furnished care in a hospital of the Armed Forces;

(ii) who the Secretary concerned determines has received maximum benefits from such care but requires a protracted period of nursing home care; and

(iii) who upon discharge from the Armed Forces will become a veteran.

(2) The Administrator may transfer a person to a nursing home under this subsection only if the Administrator determines that the cost to the United States of the care of such person in the nursing home will not exceed—

(A) the amount equal to 45 percent of the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator (as such cost may be determined annually by the Administrator); or

(B) the amount equal to 50 percent of such cost, if such higher amount is determined to be necessary by the Administrator upon the recommendation of the Chief Medical Director) to provide adequate care.

(3) Nursing home care may not be furnished under this subsection at the expense of the United States for more than six months in the aggregate in connection with any one transfer except—

(A) in the case of a veteran—

(i) who is transferred to a non-Veterans' Administration nursing home from a hospital under the direct jurisdiction of the Administrator; and

(ii) whose hospitalization was primarily for a service-connected disability;

(B) in a case in which the nursing home care is required for a service-connected disability; or

(C) in a case in which, in the judgment of the Administrator, a longer period of nursing home care is warranted.

(4) A veteran who is furnished care by the Administrator in a hospital or domiciliary facility in Alaska or Hawaii may be furnished nursing home care at the expense of the United States under this subsection even if such hospital or domiciliary facility is not under the direct jurisdiction of the Administrator.

(Added P.L. 88-450, § (2)a; amended P.L. 90-429; P.L. 90-612; § 1; P.L. 91-101; P.L. 93-82, § 104(a), (b); P.L. § 94-581, §§ 106(1)-(3), 202(h); P.L. 97-295, § 4(19)(A); P.L. 99-166, § 108(a).)

(b) No veteran may be transferred or admitted to any institution for nursing home care under this section, unless such institution is determined by the Administrator to meet such standards as the Administrator may prescribe. The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

(Added P.L. 88-450, § 2(a); amended P.L. 93-82, § 104(c); P.L. 94-581, § 210(a)(7).)

(c) In applying the provisions of section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) with respect to any contract entered into under this section to provide nursing home care of veterans, the payment of wages not less than those specified in section 6(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(b)) shall be deemed to constitute compliance with such provisions.

(Added P.L. 90-612, § 3; amended P.L. 97-295, § 4(19)(B).)

(d)(1) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any non-Veterans' Administration nursing home. The Administrator may also authorize a direct admission to such a nursing home for nursing home care for any veteran who has been discharged from a hospital under the direct jurisdiction of the Administrator and who is currently receiving medical services as part of home health services from the Veterans' Administration.

(2) Direct admission authorized by paragraph (1) of this subsection may be authorized upon determination of need therefor—

(A) by a physician employed by the Veterans' Administration; or

(B) in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement,

based on an examination by such physician.

(3) The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.

(Added P.L. 93–82, § 104(d); amended P.L. 99–166, § 108(b).)

(e)(1) The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(2)(B) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care.

(2) For the purposes of this section, the term "non-Veterans' Administration nursing home" means a public or private institution not under the direct jurisdiction of the Administrator which furnishes nursing home care.

(Added P.L. 94–581, § 106(4); amended P.L. 99–166, § 108(c); P.L. 100–322, § 103(b).)

(f)(1)(A) The Administrator is authorized to furnish adult day health care as provided for in this subsection. For the purpose only of authorizing the furnishing of such care and specifying the terms and conditions under which it may be furnished to veterans needing such care—

(i) references to "nursing home care" in subsection (a) through (d) of this section shall be deemed to be references to "adult day health care", and

(ii) a veteran who is eligible for medical services under section 612(a)(1)(B) of this title shall be deemed to be a veteran described in subsection (a)(1) of this section.

(B) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility furnishing care to veterans under subparagraph (A) of this paragraph. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the facility concerned. The Administrator may provide such assistance only for use solely in the furnishing of adult day health care and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(2) The Administrator may conduct, at facilities over which the Administrator has direct jurisdiction, programs for the furnishing of adult day health care to veterans who are eligible for such care under paragraph (1) of this subsection, except that necessary travel and incidential expenses (or transportation in lieu thereof) may be furnished under such a program only under the terms and conditions set forth in section 111 of this title. The furnishing of care under any such program shall be subject to the limitations that are applicable to the duration of adult day health care furnished under paragraph (1) of this subsection.

(3) Adult day health care may not be furnished under this section after September 30, 1991.

(Added by P.L. 98-160, § 103(a)(1); amended P.L. 99-272, § 19011(d); P.L. 100-322, § 111(a).)

§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities

(a)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities.

(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(Added P.L. 96-22, § 104(a); amended P.L. 96-128, § 501(c)(1); P.L. 99-166, § 101(a).)

(b) The Administrator, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for alcohol or drug dependence or abuse disabilities and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

(Added P.L. 96-22, § 104(a).)

(c) Upon receipt of an application for treatment and rehabilitative services under this title for an alcohol or drug dependence or abuse disability from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such treatment and services, the Administrator shall—

(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and reha-

bilitative services from sources outside the Veterans' Administration; and

(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

(Added P.L. 96-22, § 104(a).)

(d)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may not be transferred to any facility in order for the Administrator to furnish care or treatment and rehabilitative services for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, subject to the provisions of sections 1535 and 1536 of title 31.

(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time during the last thirty days of such person's enlistment period or tour of duty. No such person transferred pursuant to such a request may be furnished such care and services by the Administrator beyond the period of time specified in such request unless such person requests in writing an extension for a further specified period of time and such request is approved by the Administrator.

(Added P.L. 96-22, § 104(a); amended P.L. 96-128, § 501(c)(2); P.L. 97-258, § 3(k).)

(e) The Administrator may not furnish care and treatment and rehabilitative services under subsection (a) of this section after September 30, 1991.

(Added P.L. 96-22, § 104(a); amended P.L. 99-108, § 3; P.L. 99-166, § 101(a); P.L. 100-689, § 502(a).)

(f)(1) During the period beginning on December 1, 1988, and ending on October 1, 1997, the Administrator shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

(2) The evaluation shall include an assessment of the following:

(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

(C) The employment status and income of such veterans.

(D) The extent of any criminal activity of such veterans.

(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

(4) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.

(Added P.L. 96-22, § 104(a); amended P.L. 99-251, § 6; P.L. 99-166, § 101(a); P.L. 100-687, § 1509; P.L. 100-689, § 502(b).)

(g) The authority of the Administrator to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Added P.L. 96-22, § 104(a).)

§ 620B. Respite care

(a) The Administrator may furnish respite care services to a veteran who is eligible to receive care under section 610 of this title.

(b) For the purpose of this section, the term "respite care" means hospital or nursing home care which—

(1) is of limited duration;

(2) is furnished in a Veterans' Administration facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and

(3) is furnished for the purpose of helping the veteran to continue residing primarily at home.

(c) The authority provided by this section terminates on September 30, 1989.

(Added P.L. 96-576, § 201(a).)

[§ 620C. Repealed, P.L. 100-322, § 115(g).]

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

§ 621. Power to make rules and regulations

Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).

(Amended P.L. 94-581, §§ 202(j), 210(a)(8); P.L. 100-322, § 133.)

§ 622. Determination of inability to defray necessary expenses; income thresholds

(a)(1) For the purposes of section 610(a)(1)(I) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(B) the veteran is in receipt of pension under section 521 of this title; or

(C) the veterans' attributable income is not greater than the Category A threshold.

(2) For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.

(b) For the purposes of this section: [1]

(1) The Category A threshold—

(A) for the calendar year beginning on January 1, 1986, is—

(i) $15,000 in the case of a veteran with no dependents; and

(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

(2) The Category B threshold—

(A) for the calendar year beginning on January 1, 1986, is—

(i) $20,000 in the case of a veteran with no dependents; and

(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

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[1] Effective January 1, 1989, these levels were adjusted as follows:
Category A threshold:
Veteran with no dependent, $16,466.
Veteran with one dependent, $19,759.
Each additional dependent, $1,098.
Category B threshold:
Veteran with no dependent, $16,467 to $21,954.
Veteran with one dependent, $19,766 to $27,440.
Each additional dependent, $1,098.

(c) Effective on January 1 of each year, the amounts in effect under paragraphs (1) and (2) of subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 3112(a) of this title during the preceding calendar year.

(d)(1) Notwithstanding the attributable income of a veteran, the Administrator may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

(2) A determination described in this paragraph is a determination—

(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.

(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 522 of this title.

(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Administrator may deem the veteran to have an attributable income during the previous year not greater than the Category A threshold or the Category B threshold, as appropriate.

(2)(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

(i) the veteran has an attributable income greater than the Category A threshold; and

(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

(B) A veteran is described in this paragraph for the purpose of subsection (a)(2) of this section if—

(i) the veteran has an attributable income greater than the Category B threshold; and

(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

(f) For purposes of this section:

(1) The term "attributable income" means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 521 of this title would be reduced if such veteran were eligible for pension under that section.

(2) The term "corpus of the estate of the veteran" includes the corpus of the estates of the veteran's spouse and dependent children, if any.

(3) The term "previous year" means the calendar year preceding the year in which the veteran applies for care or services under section 610(a) or 612(f) of this title.

(g) For the purposes of section 624(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

(Amended P.L. 89-612, § 1; P.L. 91-500, § 1; P.L. 94-581, §§ 202(k), 210(a)(9); P.L. 96-330, § 401(a); P.L. 99-272, § 19011(c); P.L. 100-322, § 102(b).)

§ 623. Furnishing of clothing

The Administrator shall not furnish clothing to persons who are in Veterans' Administration facilities, except (1) where the furnishing of such clothing to indigent persons is necessary to protect health or sanitation, and (2) where the Administrator furnishes veterans with special clothing made necessary by the wearing of prosthetic appliances.

(Amended P.L. 94-581, § 210(a)(10).)

§ 624. Hospital care, medical services, and nursing home care abroad

(a) Except as provided in subsections (b) and (c), the Administrator shall not furnish hospital or domiciliary care or medical services outside any State.

(Amended P.L. 86-624, § 25(a).)

(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

(A) if the veteran is in the Republic of the Philippines or in Canada; or

(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.

(Amended P.L. 86-152; P.L. 87-815, § 4; P.L. 100-322, § 105.)

(c) Within the limits of those facilities of the Veterans Memorial Medical Center at Manila, Republic of the Philippines, for which the Administrator may contract, the Administrator may furnish necessary hospital care to a veteran for any non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care. The Administrator may enter into contracts to carry out this section.

(Amended P.L. 94–581, §§ 202(1), 210(a)(11); P.L. 95–520, § 3(a).)

(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care.

(Added P.L. 93–82, § 108(a); amended P.L. 97–72, § 107(a).)

[§ 625 Repealed, P.L. 93–43, § 4(b).]

§ 626. Reimbursement for loss of personal effects by natural disaster

The Administrator shall, under regulations which the Administrator shall prescribe, reimburse veterans in Veterans' Administration hospitals and domiciliaries for any loss of personal effects sustained by fire, earthquake, or other natural disaster while such effects were stored in designated locations in Veterans' Administration hospitals or domiciliaries.

(Amended P.L. 93–82, § 105; P.L. 94–581, § 210(a)(12).)

§ 627. Persons eligible under prior law

Persons who have a status which would, under the laws in effect on December 31, 1957, entitle them to the medical services, hospital and domiciliary care, and other benefits, provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall be entitled to such benefits notwithstanding failure to meet such service requirements.

(Amended P.L. 94–581, § 202(m).)

§ 628. Reimbursement of certain medical expenses

(a) The Administrator may, under such regulations as the Administrator shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including travel and incidental expenses under the terms and conditions set forth in section 111 of this title), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chap-

ter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

(Added P.L. 93-82, § 106(a); amended P.L. 94-581, §§ 202(n), 210(a)(13); P.L. 96-151, § 201(d).)

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

(1) to the hospital or other health facility furnishing the care or services; or

(2) to the person or organization making such expenditure on behalf of such veteran.

(Added P.L. 93-82, § 106(a).)

§ 629. Recovery by the United States of the cost of certain care and services

(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable cost of such care or services (as determined by the Administrator) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the veteran by reason of the disability;

(B) that is incurred as the result of a motor vehicles accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

(D) that is incurred by a veteran—

(i) who does not have a service-connected disability; and

(ii) who is entitled to care (or payment of the expense of care) under a health-plan contract.

(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran—

(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

(B) the amount the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

(B) The United States may institute and prosecute legal proceedings against the third party if—

(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Administrator under this chapter;

(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

(iii) a period of 60 days has passed following the mailing of such notice.

(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.

(Amended P.L. 100–322, § 202.)

(c)(1) The Administrator may compromise, settle, or waive any claim which the United States has under this section.

(2)(A) The Administrator, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining the reasonable cost of care or services under subsection (a)(1) of this section. Any determination of such cost shall be made in accordance with suchsregulations.

(B) Such regulations shall provide that the reasonable cost of care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

(C) Not later than 45 days after the date on which the Administrator prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

(d) Any contract or agreement into which the Administrator enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 3301 and 4132 of this title.

(e) A veteran eligible for care or services under this chapter—

(1) may not be denied such care or services by reason of this section; and

(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

(f) No law of any State or of any political subdivision of a State and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

(g) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

(h)(1) Subject to paragraph (3) of this subsection, the Administrator shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purpose of permitting the third party to verify—

(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

(B) that the provision of such care or services to the veterans meets the criteria generally applicable under the health-plan contract involved.

(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan contract under which recovery or collection is sought under this section from the third party concerned for the cost of care or services furnished to the veteran.

(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Administrator shall prescribe in regulations.

(i) For purposes of this section—

(1)(A) The term "health-plan contract" means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement under which health services for individuals are provided or the expenses of such services are paid.

(B) Such term does not include—

(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

(2) The term "payment" includes reimbursement and indemnification.

(3) The term "third party" means—

(A) a State or political subdivision of a State;

(B) an employer or an employer's insurance carrier;

(C) an automobile accident reparations insurance carrier; or

(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.

(Added P.L. 97-72, § 106(a)(1); amended P.L. 99-272, § 19013(a).)

§ 630. Community residential care

(a)(1) Subject to this section and regulations to be prescribed by the Administrator under this section, the Administrator may assist a veteran by referring such veteran for placement in, and aiding such veteran in obtaining placement in, a community residential-care facility if—

(A) at the time of initiating the assistance the Administrator—

(i) is furnishing the veteran medical services on an outpatient basis or hospital, domiciliary, or nursing home care; or

(ii) has furnished the veteran such care or services within the preceding 12 months; and

(B) placement of the veteran in a community residential-care facility is appropriate.

(Added P.L. 98-160, § 104(a).)

(b)(1) The Administrator may not provide assistance under subsection (a) of this section with respect to a community residential-care facility unless such facility is approved by the Administrator for the purposes of this section.

(2) The Administrator's approval of a facility for the purposes of this section shall be based upon the Administrator's determination, after inspection of the facility, that the facility meets the standards established in regulations prescribed under this section. Such standards shall include the following:

(A) Health and safety criteria, including a requirement of compliance with applicable State laws and local ordinances relating to health and safety.

(B) A requirement that the costs charged for care by a facility be reasonable, as determined by the Administrator, giving consideration to such factors as (i) the level of care, supervision, and other services to be provided, (ii) the cost of goods and services in the geographic area in which the facility is located, and (iii) comparability with other facilities in such area providing similar services.

(C) Criteria for determining the resources that a facility needs in order to provide an appropriate level of services to veterans.

(D) Such other criteria as the Administrator determines are appropriate to protect the welfare of veterans placed in a facility under this section.

(3) Payment of the charges of a community residential-care facility for any care or service provided to a veteran whom the Administrator has referred to that facility under this section is not the responsibility of the United States or of the Veterans' Administration.

(Added P.L. 98–160, § 104(a).)

(c)(1) In order to determine continued compliance by community residential-care facilities that have been approved under subsection (b) of this section with the standards established in regulations prescribed under this section, the Administrator shall provide for periodic inspection of such facilities.

(2) If the Administrator determines that a facility is not in compliance with such standards, the Administrator (in accordance with regulations prescribed under this section)—

(A) shall cease to refer veterans to such facility; and

(B) may, with the permission of the veteran (or the person or entity authorized by law to give permission on behalf of the veteran), assist in removing a veteran from such facility.

Regulations prescribed to carry out this paragraph shall provide for reasonable notice and, upon request made on behalf of the facility, a hearing before any action authorized by this paragraph is taken.

(Added P.L. 98–160, § 104(a).)

(d) The Administrator shall prescribe regulations to carry out this section. Such regulations shall include the standards required by subsection (b) of this section.

(Added P.L. 98–160, § 104(a).)

(e)(1) To the extent possible, the Administrator shall make available each report of an inspection of a community residential-care facility under subsection (b)(2) or (c)(1) of this section to each Federal, State, and local agency charged with the responsibility of licensing or otherwise regulating or inspecting such facility.

(2) The Administrator shall make the standards prescribed in regulations under subsection (d) of this section available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting community residential-care facilities.

(Added P.L. 98–160, § 104(a).)

(f) For the purpose of this section, the term "community residential-care facility" means a facility that provides room and board and such limited personal care for and supervision of residents as the Administrator determines, in accordance with regulations prescribed under this section, are necessary for the health, safety, and welfare of residents.

(Added P.L. 98-160, § 104(a).)

SUBCHAPTER IV—HOSPITAL CARE AND MEDICAL TREATMENT FOR VETERANS IN THE REPUBLIC OF THE PHILIPPINES

§ 631. Assistance to the Republic of the Philippines

The President is authorized to assist the Republic of the Philippines in fulfilling its responsibility in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

(Amended P.L. 91-24, § 6(b); P.L. 93-82, § 107(a); P.L. 97-72, § 107(b).)

§ 632. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center

(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on October 1, 1981, and ending on September 30, 1990, under which the United States—

(1) will provide for payments for hospital care and medical services (including nursing home care) in the Veterans Memorial Medical Center, as authorized by section 624 of this title and on the terms and conditions set forth in such section, to eligible United States veterans at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(2) may provide that payments for such hospital care and medical services provided to eligible United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Medical Center at valuations therefor as determined by the Administrator, who may furnish such medicines, medical supplies, and equipment through the revolving supply fund pursuant to section 5021 of this title.

(Amended P.L. 99-576, § 206(a); P.L. 100-687, § 1502(a).)

(b)(1) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center, there is authorized to be appropriated for each fiscal year during the period beginning on October 1, 1981, and ending on September 30, 1990, the sum of $1,000,000 to be used by the Administrator for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

(2) Grants under this subsection shall be made on such terms and conditions as prescribed by the Administrator. Such terms and conditions may include a requirement of prior approval by the Administrator of the uses of the funds provided by such grants.

(3) Funds for such grants may be provided only from appropriations made to the Veterans' Administration for the specific purpose of making such grants.

(Amended P.L. 99-576, § 206(a); P.L. 100-687, § 1502(a), (b).)

(c) The Administrator may stop payments under a contract or grant under this section upon reasonable notice as stipulated by the contract or grant if the Republic of the Philippines and the Veterans Memorial Medical Center do not maintain the medical center in a well-equipped and effective operating condition as determined by the Administrator.

(d)(1) The authority of the Administrator to enter into contracts and to make grants under this section is effective for any fiscal year only to the extent that appropriations are available for that purpose.

(2) Appropriations made for the purpose of this section shall remain available until expended.

(Amended P.L. 88-40, §§ 1, 2; P.L. 89-612, § 2(2), (3); P.L. 93-82, § 107(a); P.L. 94-581, § 210(a)(14); P.L. 95-520, § 3(b)(1), (2), (3), (4); P.L. 97-72, § 107(c)(1).)

§ 633. Supervision of program by the President

The President, or any officer of the United States to whom the President may delegate his authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this subchapter.

(Amended P.L. 94-581, § 210(a)(15).)

§ 634. Hospital and nursing home care and medical services in the United States

The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.

(Added P.L. 96-22, § 106(a).)

§ 635. Definitions

For the purposes of this subchapter—

(1) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, des-

ignated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. The term "new Philippine Scouts" means persons who served in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term "service-connected disabilities" means disabilities determined by the Administrator under laws administered by the Veterans' Administration to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

(Amended P.L. 89–612, § 3.)

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) $8.70 for domiciliary care; and
(2) $20.35 for nursing home care and hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

(Amended P.L. 86–625; P.L. 88–450, § 3(a); P.L. 90–432, § 1; P.L. 91–178, § 1; P.L. 93–82, § 403(a); P.L. 94–417, § 1(a); P.L. 96–151, § 101(b)(1); P.L. 98–160, § 105(a)(1); P.L. 100–322, § 134(a).)

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.

(Amended P.L. 86–625; P.L. 88–450, § 3(a); P.L. 90–432, § 1; P.L. 91–178, § 1; P.L. 93–82, § 403(a); P.L. 94–417, § 1(a).)

(c) The Administrator shall submit every three years to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the adequacy of the rates provided in subsection (a) of this section in light of projections over each of the following five years of the demand on the Veterans' Administration for the provision of nursing home care to veterans eligible for such care under this section and sections 610 and 620 of this title. The first such report shall be submitted not later than June 30, 1986.

(Added P.L. 98–160, § 105(a)(2).)

(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.

(Added P.L. 100–322, § 134(a).)

§ 642. Inspections of such homes; restrictions on beneficiaries

(a) The Administrator may inspect any State home at such times as the Administrator deems necessary. No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.

(Amended P.L. 94-581, §§ 107(a), 210(a)(16).)

(b) The Administrator may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

§ 643. Applications

Payments on account of any veteran cared for in a State home shall be made under this subchapter only from the date the Administrator receives a request for determination of such veteran's eligibility; however, if such request is received by the Administrator within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

(Amended P.L. 97-251, § 7.)

[§ 644. Repealed, P.L. 95-62, § 2.]

SUBCHAPTER VI—SICKLE CELL ANEMIA

§ 651. Screening, counseling, and medical treatment

The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

(Added P.L. 93-82, § 109(a).)

§ 652. Research

The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

(Added P.L. 93-82, § 109(a).)

§ 653. Voluntary participation; confidentiality

(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

(Added P.L. 93-82, § 109(a).)

(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title.

(Added P.L. 93-82, § 109(a); amended P.L. 94-581, § 111(b).)

§ 654. Reports

The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.

(Added P.L. 93-82, § 109(a).)

SUBCHAPTER VII—PREVENTIVE HEALTH-CARE SERVICES PILOT PROGRAM

§ 661. Purpose

The purpose of this subchapter is to provide for a preventive health-care services pilot program in order to help (1) ensure the best possible health care for certain veterans otherwise being furnished care or services under this chapter, including veterans with service-connected disabilities rated at 50 per centum or more and veterans being furnished care or services involving a service-connected disability under this chapter, by furnishing to such veterans feasible and appropriate preventive health-care services, and (2) determine the cost-effectiveness and medical advantages of furnishing such preventive health-care services.

(Added P.L. 96-22, § 105(a); amended P.L. 98-160, § 106(b).)

§ 662. Definition

For the purposes of this subchapter, the term "preventive health-care services" means—

(1) periodic medical and dental examinations;

(2) patient health education (including nutrition education);

(3) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

(4) mental health preventive services;

(5) substance abuse prevention measures;

(6) immunizations against infectious disease;

(7) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

(8) genetic counseling concerning inheritance of genetically determined diseases;

(9) routine vision testing and eye care services;

(10) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and

(11) such other health-care services as the Administrator may determine to be necessary to provide effective and economical preventive health care.

(Added P.L. 96-22, § 105(a).)

§ 663. Preventive health-care services

(a)(1) In order to carry out the purpose of this subchapter, the Administrator, within the limits of Veterans' Administration facilities and in accordance with regulations which the Administrator shall prescribe, shall, during fiscal years 1984 through 1988, furnish to any veteran described in section 612(a)(1)(B) of this title otherwise being furnished care or services under this chapter, and to any veteran receiving care or services under this chapter involving a service-connected disability, such preventive health-care services as the Administrator determines are feasible and appropriate. In carrying out the pilot program under this subchapter, the Administrator may furnish such preventive health-care services to any other veteran described in section 612(a)(1)(B) of this title.

(2) In connection with preventive health-care services furnished under paragraph (1) of this subsection, the Administrator, in accordance with regulations which the Administrator shall prescribe, may institute appropriate controls and carry out followup studies (including research) to determine the medical advantages and cost-effectiveness of furnishing such preventive health-care services.

(Added P.L. 96-22, § 105(a); amended P.L. 98-160, § 106(c)(1); P.L. 99-272, § 19011(d).)

(b) In carrying out this subchapter, the Administrator shall emphasize the utilization of interdisciplinary health-care teams composed of various professional and paraprofessional personnel.

(Added P.L. 96-22, § 105(a); amended P.L. 98-160, § 106(c)(2).)

(c) In carrying out the program provided for in this subchapter, the Administrator may not expend more than $10,000,000 in fiscal year 1980, more than $12,000,000 in fiscal year 1981, more than $13,000,000 in fiscal year 1982, more than $14,000,000 in fiscal year 1983, or more than $15,000,000 in each of fiscal years 1984 through 1988.

(Added P.L. 96-22, § 105(a); amended P.L. 96-128, § 501(d); P.L. 98-160, § 106(c).)

§ 664. Reports

The Administrator shall include in the annual report to the Congress for each of fiscal years 1984 through 1988 required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator considers necessary.

(Added P.L. 96-22, § 105(a); amended P.L. 96-160, § 106(d).)

CHAPTER 19—INSURANCE

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

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SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

§ 701. Definitions

For the purposes of this subchapter—

(1) The term "insurance" means National Service Life Insurance.

(2) The terms "widow" or "widower" mean a person who was the lawful spouse of the insured at the maturity of the insurance.

(3) The term "child" means a legitimate child, an adopted child, and, if designated as beneficiary by the insured, a stepchild or an illegitimate child.

(4) The terms "parent", "father", and "mother" mean a father, mother, father through adoption, mother through adoption, persons who have stood in loco parentis to a member of the military or naval forces at any time before entry into active service for a period of not less than one year, and a stepparent, if designated as beneficiary by the insured.

§ 702. Premium rates and policy values

Premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at the rate of 3 per centum per annum. All cash, loan, paid-up, and extended values, and all other calculations in connection with insurance, shall be based upon said American Experience Table of Mortality and interest at the rate of 3 per centum per annum.

§ 703. Amount of insurance

Insurance shall be issued in any multiple of $500 and the amount of insurance with respect to any one person shall be not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title.

(Amended P.L. 92-188, § 1.)

§ 704. Plans of insurance

(a) Insurance may be issued on the following plans: Five-year level premium term, ordinary life, twenty-payment life, thirty-payment life, twenty-year endowment, endowment at age sixty, and endowment at age sixty-five. Level premium term insurance may be converted as of the date when any premium becomes or has become due, or exchanged as of the date of the original policy, upon payment of the difference in reserve, at any time while such insurance is in force and within the term period to any of the foregoing permanent plans of insurance, except that conversion to an endowment plan may not be made while the insured is totally disabled.

(b) Under such regulations as the Administrator may promulgate a policy of participating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except (1) the premium rates for such insurance shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; and (3) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium.

(Added P.L. 88-664, § 12(b).)

(c) Under such regulations as the Administrator may promulgate, a policy of nonparticipating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except that (1) term insurance issued under section 621 of the National Service Life Insurance Act of 1940 shall be deemed for the purposes of this subsection to have been issued under section 723(b) of this title; and (2) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any person eligible for insurance under section 722(a), or section 725 of this title may be granted a modified life insurance policy under this subsection which, subject to exception (2) above, shall be issued on the same terms and conditions specified in section 722(a) or section 725, whichever is applicable.

(Added P.L. 88-664, § 12(b).)

(d) Any insured whose modified life insurance policy is in force by payment or waiver of premiums on the day before the insured's sixty-fifth birthday may upon written application and payment of premiums made before such birthday be granted National Service Life Insurance, on an ordinary life plan, without physical examination, in an amount of not less than $500, in multiples of $250, but not in excess of one-half of the face amount of the modified life insurance policy in force on the day before the insured's sixty-fifth birthday. Insurance issued under this subsection shall be effective on the sixty-fifth birthday of the insured. The premium rate, cash, loan, paid-up, and extended values on the ordinary life insurance issued under this subsection shall be based on the same mortality tables and interest rates as the insurance issued under the modified life policy. Settlements on policies involving annuities on insurance issued under this subsection shall be based on the same mortality or annuity tables and interest rates as such settlements on the modified life policy. If the insured is totally disabled on the day before the insured's sixty-fifth birthday and premiums on the insured's modified life insurance policy are being waived under section 712 of this title or the insured is entitled on that date to waiver under such section the insured shall be automatically granted the maximum amount of insurance authorized under this subsection and premiums on such insurance shall be waived during the continuous total disability of the insured.

(Added P.L. 88-664, § 12(b); amended P.L. 99-576, § 701(21).)

(e) After June 30, 1972, and under such regulations as the Administrator may promulgate, insurance may be converted to or exchanged for insurance on a modified life plan under the same terms and conditions as are set forth in subsections (b) and (c) of this section except that at the end of the day preceding the seventieth birthday of the insured the face value of the modified life insurance policy or the amount of extended insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any insured whose modified life insurance policy issued under this subsection is in force by payment or waiver of premiums on the day before the insured's seventieth birthday may be granted insurance on the ordinary life plan upon the same terms and conditions as are set forth in subsection (d) of this section except that in applying such provisions the seventieth birthday is to be substituted for the sixty-fifth birthday. Notwithstanding any other provision of law or regulations the Administrator under such terms and conditions as the Administrator determines to be reasonable and practicable and upon written application and payment of the required premiums, reserves, or other necessary amounts made within one year from the effective date of this subsection by an insured having in force a modified life plan issued under subsection (b) or (c) of this section, including any replacement insurance issued under subsection (d) of this section or other provision of this title, can exchange such insurance without proof of good health for an amount of insurance issued under this subsection equal to the insurance then in force or which was in force on the day before such insured's sixty-fifth birthday, whichever is the greater.

(Added P.L. 92-193; amended P.L. 97-295, § 4(21); P.L. 99-576, § 701(21).)

§ 705. Renewal

All level premium term policies, except as otherwise provided in this section, shall cease and terminate at the expiration of the term period. At the expiration of any term period any five-year level premium term policy which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal will be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of the term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator. In any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of this insurance under conditions which would entitle the insured to continued insurance protection but for such expiration, the insurance, if subject to renewal under this section, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan.

(Amended P.L. 91-291, § 8; P.L. 99-576, § 701(22).)

§ 706. Policy provisions

Provisions for cash, loan, paid-up, and extended values, dividends from gains and savings, refund of unearned premiums, and such other provisions as may be found to be reasonable and practicable may be provided for in the policy of insurance from time to time by regulations promulgated by the Administrator.

§ 707. Payment or use of dividends

(a) Until and unless the Veterans' Administration has received from the insured a request or directive in writing exercising any other dividend option allowable under the insured's policy, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

(Amended P.L. 92-188, § 2(1); P.L. 99-576, § 701(23).)

(b) No claim by an insured for payment in cash of a special dividend declared prior to January 1, 1952, shall be processed by the Veterans' Administration unless such claim was received within six years after such dividend was declared. Whenever any claim for payment of a special dividend, the processing of which is barred by this subsection, is received in the Veterans' Administration, it shall be returned to the claimant, with a copy of this subsection, and such action shall be a complete response without further communication.

(Added P.L. 91-291, § 9.)

(c) The Administrator, upon application in writing made by the insured for insurance under this subsection, and without proof of good health, is authorized to apply any dividend due and payable on national service life insurance after the date of such application to purchase paid up insurance. Also, the Administrator, upon application in writing made by the insured before February 1, 1973, and without proof of good health, is authorized to apply any national service life insurance dividend credits and deposits of such insured existing at the date of the insured's application to purchase paid up insurance. Any dividends, dividend credits, or deposits on endowment policies may be used under this subsection only to purchase additional paid up endowment insurance which matures concurrently with the basic policy. Any dividends, dividend credits, or deposits on policies (other than endowment policies) may be used under this section only to purchase additional paid up whole life insurance. The paid up insurance granted under this subsection shall be in addition to any insurance otherwise authorized under this title, or under prior provisions of law. The paid up insurance granted under this subsection shall be issued on the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance and all cash and loan values thereon shall be based on such table of mortality and rate of interest per annum as may be prescribed by the Administrator; (2) the total disability income provision authorized under section 715 of this title may not be added to insurance issued under this section; and (3) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(Added P.L. 92-188, § 2(2); amended P.L. 97-295, § 4(22); P.L. 99-576, § 701(23).)

§ 708. Premium payments

The Administrator shall, by regulations, prescribe the time and method of payment of the premiums on insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from the insured's active-service pay or be otherwise made. An amount equal to the first premium due under a National Service Life Insurance policy may be advanced from current appropriations for active-service pay to any person in the active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance. Any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 3101(b) of this title.

(Amended P.L. 99–576, § 701(24).)

§ 709. Effective date of insurance

Insurance may be made effective, as specified in the application, not later than the first day of the calendar month following the date of application therefor, but the United States shall not be liable thereunder for death occurring before such effective date.

§ 710. Incontestability

Subject to the provisions of section 711 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issue, reinstatement, or conversion except for fraud, nonpayment of premium, or on the ground that the applicant was not a member of the military or naval forces of the United States. However, in any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

§ 711. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to National Service Life Insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of such death shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in accordance with the order specified in section 716(b) of this title.

§ 712. Total disability waiver

(a) Upon application by the insured and under such regulations as the Administrator may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of the insured's application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's sixty-fifth birthday. Notwithstanding any other provision of this chapter, in any case in which the total disability of the insured commenced on or after the insured's sixtieth birthday but before the insured's sixty-fifth birthday, the Administrator shall not grant waiver of any premium becoming due prior to January 1, 1965.

(Amended P.L. 88-364; P.L. 99-576, § 701(25).)

(b) The Administrator, upon any application made after August 1, 1947, shall not grant waiver of any premium becoming due more than one year before the receipt in the Veterans' Administration of application for the same, except as provided in this section. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming benefits under this section, and may deny benefits for failure to cooperate. If it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy. In any case in which the Administrator finds that the insured's failure to make timely application for waiver of premiums or the insured's failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond the insured's control, the Administrator may grant waiver or continuance of waiver of premiums.

(Amended P.L. 99-576, § 701(25).)

(c) If the insured dies without filing application for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of waiver of premiums provided in this section and no deduction from benefits otherwise payable shall be made on account thereof.

(d) In any case in which an insured has been denied or would have been denied premium waiver under section 602(n) of the National Service Life Insurance Act of 1940 or this section solely because the insured became totally disabled between the date of valid application for insurance and the subsequent effective date thereof, and in which it is shown that (1) the total disability was incurred in line of duty between October 8, 1940, and July 31, 1946, inclusive, or June 27, 1950, and April 30, 1951, inclusive, and (2) the insured remained continuously so totally disabled to the date of death or June 8, 1960, whichever is earlier, the Administrator may grant waiver of premiums from the beginning of and during the continuous total disability of such insured. Application for waiver of premiums under this subsection must be filed by the insured or, in the event of the insured's death, by the beneficiary within two years after the date of enactment of this subsection, except that if the insured or the beneficiary be insane or a minor within the two-year period, application for such waiver may be filed within two years after removal of such legal disability, or if an insane insured shall die before the removal of the disability, application may be filed by the beneficiary within two years after the insured's death. No insurance shall be placed in force under this subsection in any case in which there was an award of benefits under the Servicemen's Indemnity Act of 1951 or of gratuitous insurance under section 722(b) of this title. The amount of insurance placed in force hereunder together with any other United States Government life insurance or national service life insurance in force at the time of death, or at the time of the insured's application for waiver hereunder, may not exceed $10,000 and shall be reduced by the amount of any gratuitous insurance awarded under the National Service Life Insurance Act of 1940. Waiver of premiums under this subsection shall render the insurance nonparticipating during the period such premium waiver is in effect. The cost of waiver of premium and death benefits paid as a result of this subsection shall be borne by the United States.

(Added P.L. 86–497; amended P.L. 97–295, § 4(23); P.L. 99–576, § 701(25).)

§ 713. Death before six months' total disability

Whenever premiums are not waived under section 712 of this title solely because the insured died prior to the continuance of total disability for six months, and proof of such facts, satisfactory to the Administrator, is filed by the beneficiary with the Veterans' Administration within one year after the insured's death, the insurance shall be deemed to be in force at the date of the death, and the unpaid premiums shall become a lien against the proceeds of the insurance. If the beneficiary is insane or a minor, proof of such facts may be filed within one year after removal of such legal disability.

(Amended P.L. 99–576, § 701(26).)

§ 714. Statutory total disabilities

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the total loss of hearing of both ears, or the organic loss of speech, shall be deemed total disability for insurance purposes.

§ 715. Total disability income provision

The Administrator shall, except as hereinafter provided, upon application by the insured and proof of good health satisfactory to the Administrator and payment of such extra premium as the Administrator shall prescribe, include in any National Service Life Insurance policy on the life of the insured (except a policy issued under section 620 of the National Service Life Insurance Act of 1940, or section 722 of this title) provisions whereby an insured who is shown to have become totally disabled for a period of six consecutive months or more commencing after the date of such application and before attaining the age of sixty-five and while the payment of any premium is not in default, shall be paid monthly disability benefits from the first day of the seventh consecutive month of and during the continuance of such total disability of $10 for each $1,000 of such insurance in effect when such benefits become payable. The total disability provision authorized under this section shall not be issued unless application therefor is made either prior to the insured's fifty-fifth birthday, or before the insured's sixtieth birthday and prior to January 1, 1966. The total disability provision authorized under this section shall not be added to a policy containing the total disability coverage heretofore issued under section 602(v) of the National Service Life Insurance Act of 1940, or the provisions of this section as in effect before January 1, 1965, except upon surrender of such total disability coverage, proof of good health, if required, satisfactory to the Administrator, and payment of such extra premium as the Administrator shall determine is required in such cases. Participating policies containing additional provisions for the payment of disability benefits may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such benefits.

(Amended P.L. 88-355.)

§ 716. Insurance which matured before August 1, 1946

(a) Insurance which matured before August 1, 1946, is payable in the following manner:

(1) If the beneficiary to whom payment is first made was under thirty years of age at the time of maturity, in two hundred and forty equal monthly installments.

(2) If the beneficiary to whom payment is first made was thirty or more years of age at the time of maturity, in equal monthly installments for one hundred and twenty months certain, with such payments continuing during the remaining lifetime of such beneficiary.

(3) If elected by the insured or a beneficiary entitled to make such an election under prior provisions of law, as a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary. A refund life income optional settlement is not available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months. If the mode of payment is changed to a refund life income in accordance with prior provisions of law, after payment has commenced, payment of monthly installments will be adjusted as of the date of maturity of such policy with credit being allowed for payments previously made on the insurance.

(b) Such insurance shall be payable only to a widow, widower, child, parent, brother or sister of the insured. Any installments certain of such insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the following classes, and in the order named, unless designated by the insured in a different order:

(1) To the widow or widower of the insured, if living.

(2) If no widow or widower, to the child or children of the insured, if living, in equal shares.

(3) If no widow, widower, or child, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(4) If no widow, widower, child, or parent, to the brothers and sisters of the insured, if living, in equal shares.

(c) The provisions of this section shall not be construed to enlarge the classes of beneficiaries heretofore authorized under section 602(d) of the National Service Life Insurance Act of 1940, for payment of gratuitous insurance.

(d) If no beneficiary of insurance which matured before August 1, 1946, was designated by the insured or if the designated beneficiary did not survive the insured, the beneficiary shall be determined in accordance with the order specified in subsection (b) and the insurance shall be payable in equal monthly installments in accordance with subsection (a). The right of any beneficiary to payment of any installments of such insurance shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b).

(e) No installments of insurance which matured before August 1, 1946, shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made, except that if the reserve of a contract of converted National Service Life Insurance, together with dividends accumulated thereon, less any indebtedness under such contract, exceeds the aggregate amount paid to beneficiaries, the excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of the insured's place of residence, in which event no payment shall be made. When the amount of an individual monthly payment of such insurance is less than $5, such amount may, in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

(Amended P.L. 99-576, § 701(27).)

(f) Any payments of insurance made to a person, represented by the insured to be within the permitted class of beneficiaries, shall be deemed to have been properly made and to satisfy fully the obligation of the United States under such insurance policy to the extent of such payments.

§ 717. Insurance maturing on or after August 1, 1946

(a) The insured shall have the right to designate the beneficiary or beneficiaries of insurance maturing on or after August 1, 1946, and shall, subject to regulations, at all times have the right to change the beneficiary or beneficiaries of such insurance without the consent of such beneficiary or beneficiaries.

(b) Insurance maturing on or after August 1, 1946, shall be payable in accordance with the following optional modes of settlement:

(1) In one sum.

(2) In equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve.

(3) In equal monthly installments for one hundred and twenty months certain with such payments continuing during the remaining lifetime of the first beneficiary.

(4) As a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary; however, such optional settlement shall not be available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months.

(c) Except as provided in the second and third sentences of this subsection, unless the insured elects some other mode of settlement, such insurance shall be payable to the designated beneficiary or beneficiaries in thirty-six equal monthly installments. The first beneficiary may elect to receive payment under any option which provides for payment over a longer period of time than the option elected by the insured, or if no option has been elected by the insured, in excess of thirty-six months. In the case of insurance maturing after September 30, 1981, and for which no option has been elected by the insured, the first beneficiary may elect to receive payment in one sum. If the option selected requires payment to any one beneficiary of monthly installments of less than $10, the amount payable to such beneficiary shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10. If the present value of the amount payable at the time any person initially becomes entitled to payment thereof is not sufficient to pay at least twelve monthly installments of not less than $10 each, such amount shall be payable in one sum. Options (3) and (4) shall not be available if any firm, corporation, legal entity (including the estate of the insured), or trustee is beneficiary.

(Amended P.L. 91–291, § 10; P.L. 97–66, § 403(a).)

(d) If the beneficiary of such insurance is entitled to a lump-sum settlement but elects some other mode of settlement and dies before receiving all the benefits due and payable under such mode of settlement, the present value of the remaining unpaid amount shall be payable to the estate of the beneficiary. If no beneficiary is designated by the insured, or if the designated beneficiary does not survive the insured, or if a designated beneficiary not entitled to a lump-sum settlement survives the insured, and dies before receiving all the benefits due and payable, then the commuted value of the remaining unpaid insurance (whether accrued or not) shall be paid in one sum to the estate of the insured. In no event shall there be any payment to the estate of the insured or of the beneficiary of any sums unless it is shown that any sums paid will not escheat.

(e) Under such regulations as the Administrator may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured under option (2) or (4) of this section. All settlements under option (4), however, shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(Amended P.L. 91–291, § 10.)

§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing after July 26, 1962.

(Amended P.L. 87–557; P.L. 97–295, § 4(24).)

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing after July 26, 1962, is payable may assign all or any portion of such person's interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

(Added P.L. 87–557; amended P.L. 96–128, § 304; P.L. 97–295, § 4(24).)

§ 719. National Service Life Insurance appropriation

(a) The National Service Life Insurance appropriation is continued and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter and the provisions heretofore prescribed in the National Service Life Insurance Act of 1940, or related Acts, for the payment of liabilities under National Service Life Insurance. Payment from this appropriation shall be made upon and in accordance with awards by the Administrator.

(b) All premiums heretofore and hereafter paid on insurance issued or reinstated under sections 602(c)(2) and 602(v)(1) of the National Service Life Insurance Act of 1940 where the requirement of good health was waived under such sections because of a service-incurred injury or disability shall be credited directly to the National Service Life Insurance appropriation and any payments of benefits heretofore and hereafter made on such insurance shall be made directly from such appropriation.

(Amended P.L. 98–160, § 702.)

§ 720. National Service Life Insurance Fund

(a) The National Service Life Insurance Fund heretofore created in the Treasury is continued as a permanent trust fund. Except as otherwise provided in this chapter, all premiums paid on account of National Service Life Insurance shall be deposited and covered into the Treasury to the credit of such fund, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance, including payment of dividends and refunds of unearned premiums. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of such fund such reserve amounts as may be required under accepted actuarial principles to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest such fund, or any part thereof, in interest-bearing obligations of the United States or in obligations guaranteed as to principal and interest by the United States, and to sell such obligations for the purposes of such fund.

§ 721. Extra hazard costs

(a) The United States shall bear the excess mortality cost and the cost of waiver of premiums on account of total disability traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator.

(b) Whenever benefits under insurance become payable because of the death of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the liability for payment of such benefits shall be borne by the United States in an amount which, when added to the reserve of the policy at the time of death of the insured will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits of insurance heretofore or hereafter matured, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 3 per centum per annum. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) Whenever the premiums under insurance are waived because of the total disability of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the premiums so waived shall be paid by the United States and the Administrator shall transfer from time to time an amount equal to the amount of such premiums from the National Service Life Insurance appropriation to the National Service Life Insurance Fund.

(d) Whenever benefits under the total disability income provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the National Service Life Insurance appropriation to the National Service Life Insurance Fund from time to time any amounts which become, or have become, payable to the insured on account of such total disability, and to transfer from the National Service Life Insurance Fund to the National Service Life Insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability, and is then entitled to continue protection under the total disability income provision, the Administrator shall transfer to the National Service Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(e) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

§ 722. Service disabled veterans' insurance

(a) Any person who is released from active military, naval, or air service, under other than dishonorable conditions on or after April 25, 1951, and is found by the Administrator to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator, shall, upon application in writing made within one year from the date service-connection of such disability is determined by the Veterans' Administration and payment of premiums as provided in this subchapter, be granted insurance by the United States against the death of such person occurring while such insurance is in force. If such a person is shown by evidence satisfactory to the Administrator to have been mentally incompetent during any part of the one-year period, application for insurance under this section may be filed within one year after a guardian is appointed or within one year after the removal of such disability as determined by the Administrator, whichever is the earlier date. If the guardian was appointed or the removal of the disability occurred before January 1, 1959, application for insurance under this section may be made within one year after that date. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of

2¼ per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized. As to insurance issued under this section, waiver of premiums pursuant to section 602(n) of the National Service Life Insurance Act of 1940 and section 712 of this title shall not be denied on the ground that the service-connected disability became total before the effective date of such insurance.

(b)(1) Any person who, on or after April 25, 1951, was otherwise qualified for insurance under the provisions of section 620 of the National Service Life Insurance Act of 1940, or under subsection (a) of this section, but who did not apply for such insurance and who is shown by evidence satisfactory to the Administrator (A) to have been mentally incompetent from a service-connected disability, (i) at the time of release from active service, or (ii) during any part of the one-year period from the date the service connection of a disability is first determined by the Veterans' Administration, or (iii) after release from active service but is not rated service-connected disabled by the Veterans' Administration until after death; and (B) to have remained continuously so mentally incompetent until date of death; and (C) to have died before the appointment of a guardian, or within one year after the appointment of a guardian; shall be deemed to have applied for and to have been granted such insurance, as of the date of death, in an amount which, together with any other United States Government or National Service life insurance in force, shall aggregate $10,000. The date to be used for determining whether such person was insurable according to the standards of good health established by the Administrator, except for the service-connected disability, shall be the date of release from active service or the date the person became mentally incompetent, whichever is the later.

(2) Payments of insurance granted under subsection (b)(1) of this section shall be made only to the following beneficiaries and in the order named—

(A) to the widow or widower of the insured, if living and while unremarried;

(B) if no widow or widower entitled thereto, to the child or children of the insured, if living, in equal shares;

(C) if no widow or widower or child entitled thereto, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(3) No application for insurance payments under this subsection shall be valid unless filed in the Veterans' Administration within two years after the date of death of the insured or before January 1, 1961, whichever is the later, and the relationship of the appli-

cant shall be proved as of the date of death of the insured by evidence satisfactory to the Administrator. Persons shown by evidence satisfactory to the Administrator to have been mentally or legally incompetent at the time the right to apply for death benefits expires, may make such application at any time within one year after the removal of such disability.

(4) Notwithstanding the provisions of section 717 of this title, insurance under this subsection shall be payable at the election of the first beneficiary in 240 equal monthly installments or under the options specified in section 717(b)(3) or (4) of this title. Any installments certain of insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the classes specified in subsection (b)(2) of this section and in the order named.

(5) The right of any beneficiary to payment of any installments shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b)(2) of this section. No installments of such insurance shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made.

§ 723. Veterans' Special Life Insurance

(a) Insurance heretofore granted under the provisions of section 621 of the National Service Life Insurance Act of 1940, against the death of the policyholder occurring while such insurance is in force, is subject to the same terms and conditions as are contained in standard policies of National Service Life Insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums.

(Amended P.L. 93-289, § 2(a)(2).)

(b) Any term insurance heretofore issued under section 621 of the National Service Life Insurance Act of 1940, may be converted to a permanent plan of insurance or exchanged for a policy of limited convertible five-year level premium term insurance issued under this subsection. Insurance issued under this subsection shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) after September 1, 1960, limited convertible term insurance may not be issued or renewed on the term plan after the insured's fiftieth birthday; (2) the premium rates for such limited convertible term or permanent plan insurance shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (3) all settlements on policies involving annuities on insurance issued under this subsection shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2½ per centum per annum; (4) all cash, loan, paid-up, and extended values, and, except as otherwise provided in this subsection, all other calculations in connection with insurance issued under this subsection shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (5) all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums.

(Added P.L. 85–896, § 1(2); amended P.L. 93–289, § 2(a)(3).)

(c) The Administrator is authorized to invest in, and the Secretary of the Treasury is authorized to sell and retire, special interest-bearing obligations of the United States for the account of the revolving fund with a maturity date as may be agreed upon by the Administrator and Secretary. The rate of interest on such obligations shall be fixed by the Secretary of the Treasury at a rate equal to the rate of interest, computed as of the end of the month preceding the date of issue of such obligations, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate.

(Amended P.L. 85–896, § 1(1), (3).)

§ 724. In-service waiver of premiums

(a) Waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Administrator, granted on National Service Life Insurance or United States Government life insurance under section 622 of the National Service Life Insurance Act of 1940 and in effect on January 1, 1959, shall, unless canceled, continue in effect according to the provisions of such section for the remainder of the insured's continuous active service and for one hundred and twenty days thereafter. Such premium waiver renders the contract of insurance nonparticipating during the period the waiver is in effect.

(b) Whenever benefits become payable because of the maturity of such insurance while under the premium waiver continued by this section, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 2¼ per centum per annum as to insurance issued under sections 620 and 621 of the National Service Life Insurance Act of 1940, at the rate of 3 per centum per annum as to other National Service Life Insurance, and 3½ per centum per annum as to United States Government life insurance. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) In any case in which insurance continued in force under this section matures on or after January 1, 1972, an amount equal to the amount of premiums, less dividends, waived on and after that date shall be placed as an indebtedness against the insurance and, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under subsection (b) of this section shall be reduced by the amount so deducted from the proceeds.

(Added P.L. 92–197, § 7.)

§ 725. Limited period for acquiring insurance

(a) Any person (other than a person referred to in subsection (f) of this section) heretofore eligible to apply for National Service Life Insurance after October 7, 1940, and before January 1, 1957, who is found by the Administrator to be suffering (1) from a service-connected disability or disabilities for which compensation would be payable if 10 percent or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator; or (2) from a non-service-connected disability which renders such person uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that such person is unable to obtain commercial life insurance at a substandard rate, shall, upon application in writing made before May 2, 1966, compliance with the health requirements of this section and payment of the required premiums, be granted insurance under this section.

(Added P.L. 88–664, § 12(a); amended P.L. 97–295, § 4(25)(A), (B), P.L. 99–576, § 701(28).)

(b) If, notwithstanding the applicant's service-connected disability, such person is insurable according to the standards of good health established by the Administrator, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Administrator determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(Added P.L. 88-664, § 12(a); amended P.L. 89-40, § 1(1); P.L. 96-128, § 301(a); P.L. 97-295, § 4(25)(A); P.L. 99-576, § 701(28).)

(c) If the applicant's service-connected disability or disabilities render the applicant uninsurable according to the standards of good health established by the Administrator, or if the applicant has a non-service-connected disability which renders the applicant uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Admministrator that such person is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Administrator determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible) and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified; (4) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (5) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (6) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(Added P.L. 88-664, § 12(a); amended P.L. 89-40, § 1(2); P.L. 96-128, § 301(b); P.L. 97-295, § 4(25)(A); P.L. 99-576, § 701(28).)

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto, including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned on the assets of that fund. For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Administrator to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt.

(2) The Administrator is authorized to set aside out of the revolving fund established under this section such reserve amounts as may be required under accepted actuarial principles to meet all liabilities on insurance issued under this section and any total disability income provision attached thereto. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent, the rate of interest of such obligation shall be the multiple of one-eighth of 1 percent nearest such market yield.

(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administrative costs to the Government which in the Administrator's judgment are properly allocable to insurance issued under this section and any total disability income provision attached thereto, and shall transfer from the revolving fund, the amount of such cost allocable to the Veterans' Administration to the appropriation "General Operating Expenses, Veterans' Administration", and the remainder of such cost to the general fund receipts in the Treasury. The initial administrative costs of issuing insurance under this section and any total disability income provision attached thereto shall be so transferred over such period of time as the Administrator determines to be reasonable and practicable.

(Added P.L. 88-664, § 12(a); amended P.L. 89-40, § 1(3), (4), (5); P.L. 96-128, § 301(c); P.L. 97-295, § 4(25)(A); P.L. 99-576, § 701(28).)

(e) Notwithstanding the provisions of section 782 of this title, a medical examination (including any supplemental examination or tests) when required of an applicant for issuance of insurance under this section or any total disability income provisions attached thereto shall be at the applicant's own expense by a duly licensed physician.

(Added P.L. 88-664, § 12(a).)

(f) No insurance shall be granted under this section to any person referred to in section 107 of this title or to any person while on active duty or active duty for training under a call or order to such duty for a period of thirty-one days or more.

(Added P.L. 88-664, § 12(a).)

§ 726. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding sections 702, 723, and 725 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

(Added P.L. 96-128, § 302(a).)

§ 727. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

(Added P.L. 100-322, § 331(a).)

§ 728. Authority for payment of interest on settlements

(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.

(Added P.L. 100-687, § 1401(a)(1).)

§ 729. Authority to adjust premium discount rates

(a) Notwithstanding sections 702, 723, and 725 of this title and subject to subsection (b) of this section, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Administrator may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 702, 723, or 725 of this title.

(2) The Administrator may make an adjustment under subsection (a) of this section only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance involved.

(Added P.L. 100-687, § 1401(b)(1).)

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

§ 740. Definition

For the purposes of this subchapter, the term "insurance" means United States Government life insurance.

§ 741. Amount of insurance

United States Government life insurance shall be issued against death or total permanent disability in any multiple of $500 and not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title.

(Amended P.L. 92-188, § 1.)

§ 742. Plans of insurance

(a) Regulations shall provide for the right to convert insurance on the five-year level premium term plan into ordinary life, twenty-payment life, endowment maturing at age sixty-two, and into other usual forms of insurance as may be prescribed by the Administrator. Provision shall be made for reconversion of any such policies to a higher premium rate or, upon proof of good health satisfactory to the Administrator, to a lower premium rate, in accordance with regulations to be issued by the Administrator. No reconversion shall be made to a five-year level premium term policy.

(b) An insured who on or after the insured's sixty-fifth birthday has a five-year level premium term policy of insurance in force by payment of premiums may exchange such policy for insurance on a special endowment at age ninety-six plan upon written application; payment of the required premium; and surrender of the five-year level premium term policy and any total disability provision attached thereto with all rights, title, and interests thereunder. However, if it is found by the Administrator subsequent to the exchange that prior thereto the term policy matured because of total permanent disability of the insured or that the insured was entitled to total disability benefits under the total disability provision attached to such policy, the insured, upon surrender of the special endowment at age ninety-six policy and any provision for waiver of premiums issued under subsection (c) of this section with all rights, title, and interest thereunder, will be entitled to benefits payable under the prior contract. In such case, the cash value less any indebtedness on the endowment policy shall be refunded together with any premiums paid on a provision for waiver of premiums. Insurance on the special endowment at age ninety-six plan shall be issued at the attained age of the insured upon the same terms and conditions as are contained in standard policies of United States Government Life Insurance except:

(1) the insurance shall not mature and no benefits shall be paid thereunder because of total permanent disability;

(2) the premiums for such insurance shall be as prescribed by the Administrator;

(3) such insurance cannot be exchanged, converted, or reconverted to any other plan of insurance;

(4) all cash, loan, paid-up, and extended term insurance values shall be as prescribed by the Administrator; and

(5) the insurance shall be subject to such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(Added P.L. 87-549; amended P.L. 99-576, § 701(29).)

(c) The Administrator shall, upon application made by the insured at the same time as the insured exchanges the term policy for an endowment policy issued under the provisions of subsection (b) of this section, and upon payment of such extra premium as the Administrator shall prescribe, include in such endowment policy a provision for waiver of premiums on the policy and on the provision during the total permanent disability of the insured, if such disability began after the date of such application and while the policy and the provision are in force by payment of premiums. The Administrator shall not grant waiver of any premium becoming due more than one year before receipt in the Veterans' Administration of claim for the same, except as provided in this subsection. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming waiver of premiums under this subsection, and may deny waiver for failure to cooperate. If it is found that an insured is no longer totally and permanently disabled, the waiver of premiums shall cease as of the date of such finding and the policy and provision may be continued by payment of premiums as provided therein. In any case in which the Administrator finds that the insured's failure to make timely claim for waiver of premiums, or to submit satisfactory evidence of the existence or continuance of total permanent disability was due to circumstances beyond the insured's control, the Administrator may grant waiver or continuance of waiver of premiums. If the insured dies without filing claim for waiver, the beneficiary, within one year after the death of the insured, or if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file claim for waiver with evidence of the insured's right to waiver under this subsection. Policies containing a provision for waiver of premiums issued under this subsection may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such provision.

(Added P.L. 87-549; amended P.L. 99-576, § 701(29).)

§ 743. Premiums

The premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at 3½ percent per annum. Regulations shall prescribe the time and method of payment of premiums, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at the insured's election.

(Amended P.L. 97-295, § 4(26); P.L. 99-576, § 701(30).)

§ 744. Policy provisions

(a) Provisions for maturity at certain ages, for continuous installments during the lifetime of the insured or beneficiaries, or both, for refund of premiums, cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable may be provided for in insurance contracts or from time to time by regulations.

(b) All calculations on insurance shall be based upon the American Experience Table of Mortality and interest at 3½ percent per annum, except that no deduction shall be made for continuous installments during the life of the insured in case the insured's total and permanent disability continues more than two hundred and forty months.

(Amended P.L. 97-295, § 4(26); P.L. 99-576, § 701(30).)

(c) On and after July 19, 1939, the rate of interest charged on any loan secured by a lien on insurance shall not exceed 5 percent per annum.

(Amended P.L. 97-295, § 4(26).)

§ 745. Renewal

At the expiration of any term period any insurance policy issued on the five-year level premium term plan which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal shall be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of the insured's term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator.

(Amended P.L. 91-291, § 11; P.L. 99-576, § 701(30).)

§ 746. Dividends to pay premiums

Until and unless the Veterans' Administration has received from the insured a request in writing for payment of dividends in cash or that the dividends be placed on deposit in accordance with the provisions of the insured's policy, any regular annual dividends shall be applied in payment of premiums becoming due on insurance after the date the dividend is payable on or after December 31, 1958.

(Amended P.L. 99-576, § 701(30).)

§ 747. Incontestability

Subject to the provisions of section 754 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issuance, reinstatement, or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States. The insured under such contract or policy may, without prejudicing the insured's rights, elect to make claim to the Veterans' Administration or to bring suit under section 784 of this title on any prior contract or policy, and if found entitled thereto, shall, upon surrender of any subsequent contract or policy, be entitled to payments under the prior contract or policy. In any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

(Amended P.L. 99-576, § 701(30).)

§ 748. Total disability provision

The Administrator shall include in United States Government life insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age of sixty-five years and before default in payment of any premium, shall be paid disability benefits at the rate of $5.75 monthly for each $1,000 of insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent and total disability benefits under the insurance policy. In addition to the monthly disability benefits the payment of premiums on the life insurance and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the insurance policy, including the total disability provision, may be continued by payment of premiums as provided in said policy and the total disability provision.

Neither the dividends nor the amount payable in any settlement under any United States Government life insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanently disabled, to permanent and total disability benefits under the insured's insurance policy. The provision authorized by this section shall not be included in any United States Government life insurance policy heretofore or hereafter issued, except upon application, payment of premium by the insured, and proof of good health satisfactory to the Administrator. The benefit granted under this section shall be on the basis of multiples of $500, and not less than $1,000 or more than the amount of insurance in force at time of application. The Administrator shall determine the amount of the monthly premium to cover the benefits of this section, and in order to continue such benefits in force the monthly premiums shall be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life insurance policy.

(Amended P.L. 99–576, § 701(30).)

§ 749. Change of beneficiary

Subject to regulations, the insured shall at all times have the right to change the beneficiary or beneficiaries of a United States Government life insurance policy without the consent of such beneficiary or beneficiaries.

§ 750. Payment to estates

If no beneficiary of insurance is designated by the insured, either while alive or by last will, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments. If the designated beneficiary survives the insured and dies before receiving all of the installments of insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments. No payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government Life Insurance Fund.

(Amended P.L. 99–576, § 701(31).)

§ 751. Payment of insurance

United States Government life insurance, except as provided in this subchapter, shall be payable in two hundred and forty equal monthly installments. When the amount of an individual monthly payment is less than $5, such amount may in the discretion of the Administrator be allowed to accumulate without interest and be disbursed annually.

§ 752. Optional settlement

(a) The Administrator may provide in insurance contracts for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. A provision may also be included in such contracts authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised the right of election as provided in this subchapter. Even though the insured may have exercised the right of election the beneficiary may elect to receive such insurance in installments spread over a greater period of time than that selected by the insured. Notwithstanding any provision to the contrary in any insurance contract, the beneficiary may, in the case of insurance maturing after September 30, 1981, and for which the insured has not exercised the right of election of the insured as provided in this subchapter, elect to receive payment of the insurance in one sum.

(Amended P.L. 97-66, § 403(b); P.L. 99-576, § 701(32).)

(b) Under such regulations as the Administrator may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured (1) in equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve; or (2) as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the cash value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under option (2) above shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(Added P.L. 91-291, § 12.)

§ 753. Assignments

Any person to whom United States Government life insurance shall be payable may assign such person's interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

(Amended P.L. 96-128, § 304.)

§ 754. Forfeiture

No yearly renewable term insurance or United States Government life insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy. In such cases the cash surrender value of United States Government life insurance, if any, on the date of such death shall be paid to the designated beneficiary if living, or if there be no designated beneficiary alive at the death of the insured the said value shall be paid to the estate of the insured.

§ 755. United States Government Life Insurance Fund

(a) All premiums paid on account of United States Government life insurance shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance, including such liabilities as shall have been or shall hereafter be reduced to judgment in a district court of the United States or the United States District Court for the District of Columbia. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of the funds so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest the said United States Government Life Insurance Fund, or any part thereof, in interest-bearing obligations of the United States or bonds of the Federal farm-loan banks and to sell said obligations of the United States or the bonds of the Federal farm-loan banks for the purposes of such Fund.

§ 756. Military and naval insurance appropriation

All sums heretofore or hereafter appropriated for the military and naval insurance appropriation and all premiums collected for yearly renewable term insurance deposited and covered into the Treasury to the credit of this appropriation shall be made available to the Veterans' Administration. All premiums that may hereafter be collected for yearly renewable term insurance shall be deposited and covered into the Treasury for the credit of this appropriation. Such sum is made available for the payment of the liabilities of the United States incurred under contracts of yearly renewable term insurance. Payments from this appropriation shall be made upon and in accordance with the awards by the Administrator.

§ 757. Extra hazard costs

(a) The United States shall bear the excess mortality and disability cost resulting from the hazards of war on United States Government life insurance.

(b) Whenever benefits under United States Government life insurance become, or have become, payable because of total permanent disability of the insured or because of the death of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States. In such cases the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum which, together with the reserve of the policy at the time of maturity by total permanent disability or death, will equal the then value of such benefits. When a person receiving total permanent disability benefits under a United States Government life insurance policy recovers from such disability and is then entitled to continue a reduced amount of insurance, the Administrator shall transfer to the military and naval insurance appropriation all of the loss reserve to the credit of such policy claim except a sum sufficient to set up the then required reserve on the reduced amount of the insurance that may be continued, which sum shall be retained in the United States Government Life Insurance Fund for the purpose of such reserve.

(c) Whenever benefits under the total disability provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund from time to time any amounts which become or have become payable to the insured on account of such total disability, and shall transfer from the United States Government Life Insurance Fund to the military and naval insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability and is then entitled to continued protection under the total disability provision, the Administrator shall transfer to the United States Government Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(d) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

§ 758. Statutory total permanent disability

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, shall be deemed total permanent disability for insurance purposes. This section shall be deemed to be in effect on and after April 6, 1917, and shall apply only to automatic insurance, yearly renewable term insurance, and United States Government life insurance issued prior to December 15, 1936.

§ 759. Waiver of disability for reinstatement

(a) In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the applicant have been complied with, an application for reinstatement, in whole or in part, of lapsed United States Government life insurance may be approved if made within two years after the date of lapse and if the applicant's disability is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the period beginning April 6, 1917, and ending July 2, 1921, and the applicant during the applicant's lifetime submits proof satisfactory to the Administrator showing that the applicant is not totally and permanently disabled. As a condition to the acceptance of an application for reinstatement under this section, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest at the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy.

(Amended P.L. 99-576, § 701(33).)

(b) Premium liens established under the provisions of section 304 of the World War Veterans' Act, 1924, shall continue to bear interest at the rate of 5 per centum per annum, compounded annually, and will be deducted from any settlement of insurance to which they are attached.

§ 760. Waiver of premium payments on due date

(a) The Administrator is authorized to provide by regulations for waiving the payment of premiums on United States Government life insurance on the due date thereof and the insurance may be deemed not to lapse in the cases of the following persons: (1) those who are confined in hospital under the Veterans' Administration for a compensable disability during the period while they are so confined; (2) those who are rated as temporarily totally disabled by reason of any injury or disease entitling them to compensation during the period of such total disability and while they are so rated; (3) those who, while mentally incompetent and for whom no legal guardian had been or has been appointed, allowed or may allow their insurance to lapse during the period for which they have been or hereafter may be rated mentally incompetent, or until a guardian has notified the Veterans' Administration of the guardian's qualification, but not later than six months after appointment of a guardian. In mentally incompetent cases the waiver is to be made without application and retroactive when necessary. Relief from payment of premiums on the due date thereof shall be for full calendar months, beginning with the month in which said confinement to hospital, the temporary total disability rating, or the mental incompetency began or begins and ending with that month during the half or major fraction of which such persons are no longer entitled to waiver as provided above.

(Amended P.L. 99-576, § 701(34).)

(b) All premiums the payment of which when due is waived as provided in this section shall bear interest at the rate of 5 percent per annum, compounded annually, from the due date of each premium, and if not paid by the insured shall be deducted from the insurance in any settlement thereunder, or when the same matures either because of permanent total disability or death. In the event any lien or other indebtedness established by this section or prior corresponding provision of law exists against any policy of United States Government life insurance in excess of the then cash surrender value thereof at the time of the termination of such policy of insurance for any reason other than by death or total permanent disability the Administrator is authorized to transfer and pay from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum equal to the amount such lien or indebtedness exceeds the then cash surrender value.

(Amended P.L. 97-295, § 4(28).)

§ 761. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding section 744(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

(Added P.L. 96-128, § 303(a).)

§ 762. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that woud otherwise be applicable without regard to this section.

(Added P.L. 100–322, § 331(b).)

§ 763. Authority for payment of interest on settlements

(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

(2) Interest paid under subsection (a) shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.

(Added P.L. 100–687, § 1401(a)(2).)

SUBCHAPTER III—SERVICEMEN'S GROUP LIFE INSURANCE

§ 765. Definitions

For the purpose of this subchapter—

(1) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; and

(D) full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy.

(2) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;

(C) full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; and

(D) in the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(3) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed or authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) which duty is scheduled in advance by competent authority to begin at a specific time and place; and

(B) in the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) which is scheduled in advance by competent authority to begin at a specific time and place under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(4) The terms "active duty for training" and "inactive duty training" do not include duty performed as a temporary member of the Coast Guard Reserve, and the term "inactive duty training" does not include (i) work or study performed in connection with correspondence courses, or (ii) attendance at an educational institution in an inactive status.

(5) The term "member" means—

(A) a person on active duty, active duty for training, or inactive duty training in the uniformed services in a commissioned, warrant, or enlisted rank, or grade, or as a cadet or midshipman of the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy;

(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which such person may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10;

(C) a person assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who has not received the first increment of retirement pay or has not yet reached sixty-one years of age and has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10; and

(D) a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises.

(6) The term "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(7) The terms "widow" or "widower" means a person who is the lawful spouse of the insured member at the time of his death.

(8) The term "child" means a legitimate child, a legally adopted child, an illegitimate child as to the mother, or an illegitimate child as to the alleged father, only if (a) he acknowledged the child in writing signed by him; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been, before his death, judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the insured was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as

school or welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(9) The term "parent" means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (a) he acknowledged paternity of the child in writing signed by him before the child's death; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during the child's minority, or consented to the child's adoption may be recognized as a parent for the purpose of this subchapter. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt in the administrative office established under subsection 766(b) of this title of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 1; P.L. 92-185, § 1; P.L. 92-315; P.L. 93-289, §§ 3, 10(1); P.L. 99-576, § 701(35).)

§ 766. Eligible insurance companies

(a) The Administrator is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subchapter. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administrator, have in effect at least 1 percent of the total amount of group life insurance which all life insurance companies have in effect in the United States.aa

(Added P.L. 89-214, § 1(a); amended P.L. 97-295, § 4(29).)

(b) The life insurance company or companies issuing such policy or policies shall establish an administrative office at a place and under a name designated by the Administrator.

(c) The Administrator shall arrange with the life insurance company or companies issuing any policy or policies under this subchapter to reinsure, under conditions approved by the Administrator, portions of the total amount of insurance under such policy or policies with such other life insurance companies (which meet qualifying criteria set forth by the Administrator) as may elect to participate in such reinsurance.

(Amended P.L. 99-576, § 701(36).)

(d) The Administrator may at any time discontinue any policy or policies which the Administrator has purchased from any insurance company under this subchapter.

(Added P.L. 89–214, § 1(a); amended P.L. 99–576, § 701(36).)

§ 767. Persons insured; amount

(a) Any policy of insurance purchased by the Administrator under section 766 of this title shall automatically insure against death—

(1) any member of a uniformed service on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority;

(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title; and

(3) any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(C) of this title;

in the amount of $50,000, unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in an amount less than $50,000 that is evenly divisible by $10,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 765(5)(B) of this title, or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 765(5)(C) of this title, or the date certified by the Administrator to the Secretary concerned as the date Servicemen's Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.

(Added P.L. 89–214, § 1(a); amended P.L. 91–291, § 2; P.L. 93–289, § 4(1); P.L. 97–66, § 401(a)(1); P.L. 99–166, § 401(a).)

(b) Any member (other than one who has elected not to be insured under this subchapter for the period or periods of duty involved)—

(1) who, when authorized or required by competent authority, assumes an obligation to perform (for less than thirty-one days) active duty, or active duty for training, or inactive duty training scheduled in advance by competent authority; and

(2) who is rendered uninsurable at standard premium rates according to the good health standards approved by the Administrator, or dies within one hundred and twenty days thereafter, from a disability, or aggravation of a preexisting disability, incurred by such member while proceeding directly to or returning directly from such active duty, active duty for training, or inactive duty training as the case may be;

shall be deemed to have been on active duty, active duty for training, or inactive duty training, as the case may be, and to have been insured under this subchapter at the time such disability was incurred or aggravated, and if death occurs within one hundred and twenty days thereafter as a result of such disability to have been insured at the time of death. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not such member was rendered uninsurable or died within one hundred and twenty days thereafter from a disability so incurred or aggravated, there shall be taken into account the call or order to duty, the orders and authorizations of competent authority, the hour on which the member began to so proceed or to return, the hour on which such member was scheduled to arrive for, or on which such member ceased to perform such duty; the method of travel employed; such member's itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 2; P.L. 93-289, § 4(2); P.L. 99-576, § 701(37).)

(c) If any member elects not to be insured under this subchapter or to be insured in any amount less than $50,000, such member may thereafter be insured under this subchapter in the amount of $50,000 or any lesser amount evenly divisible by $10,000 upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administrator. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemen's Group Life Insurance and declines such coverage solely for the purpose of maintaining such member's Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemen's Group Life Insurance, if otherwise eligible therefor.

(Added P.L. 91-291, § 2; amended P.L. 93-289, § 4(3); P.L. 97-66, § 401(a)(2); P.L. 99-166, § 401(a); P.L. 99-576, § 701(37).)

(d) Notwithstanding any other provision of this section, any member who on January 1, 1986 is a member of the Retired Reserve of a uniformed service (or who upon application would be eligible for assignment to the Retired Reserve of a uniformed service) may obtain increased insurance coverage in the amount of $50,000 or any lesser amount evenly divisible by $10,000 if—

(1) the member—

(A) is insured under this subchapter on January 1, 1986; or

(B) within one year after January 1, 1986, reinstates insurance under this subchapter that had lapsed for nonpayment of premiums; and

(2) the member submits a written application for the increased coverage to the office established pursuant to section 766(b) of this title within one year after January 1, 1986.

(Added P.L. 97-66, § 401(a)(3); amended P.L. 99-166, § 401(a).)

§ 768. Duration and termination of coverage; conversion

(a) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, to the effect that any insurance thereunder on any member of the uniformed services, unless discontinued or reduced upon the written request of the insured, shall continue in effect while the member is on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority during the period thereof, or while the member meets the qualifications set forth in section 765(5)(B) or (C) of this title, and such insurance shall cease—

(1) with respect to a member on active duty or active duty for training under a call or order to duty that does not specify a period of less than thirty-one days—

(A) one hundred and twenty days after the separation or release from active duty or active duty for training, unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such active duty or active duty for training, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after such separation or release; or

(B) at the end of the thirty-first day of a continuous period of (i) absence without leave, (ii) confinement by civil authorities under a sentence adjudged by a civilian court, or (iii) confinement by military authorities under a court-martial sentence involving total forfeiture of pay and allowances. Any insurance so terminated as the result of such an absence or confinement, together with any beneficiary designation in effect for such insurance at such termination thereof, shall be automatically revived as of the date the member is restored to active duty with pay or to active duty for training with pay.

(2) with respect to a member on active duty or active duty for training under a call or order to duty that specifies a period of less than thirty-one days insurance under this subchapter shall cease at midnight, local time, on the last day of such duty, unless on such date the insured is suffering from a disability incurred or aggravated during such period which, within one hundred and twenty days after such date, (i) results in death, or (ii) renders the member uninsurable at standard premium rates according to the good health standards approved by the Administrator, in which event the insurance shall continue in force to death, or for one hundred and twenty days after such date, whichever is the earlier date.

(3) with respect to a member on inactive duty training scheduled in advance by competent authority insurance under this subchapter shall cease at the end of such scheduled training period, unless at such time the insured is suffering from a disability incurred, or aggravated during such period which, within one hundred and twenty days after the date of such

training, (i) results in death, or (ii) renders the member uninsurable at standard premium rates according to the good health standards approved by the Administrator in which event the insurance shall continue in force to death, or for one hundred and twenty days after the date such training terminated, whichever is the earlier date.

(4) with respect to a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title, one hundred and twenty days after separation or release from such assignment—

(A) unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such assignment, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after separation or release from such assignment; or

(B) unless on the date of such separation or release the member has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10 and would upon application be eligible for assignment to or is assigned to the Retired Reserve, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 777(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Administrator directly to the administrative office established under section 766(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier.

(5) with respect to a member of the Retired Reserve who meets the qualifications of section 765(5)(C) of this title, and who was assigned to the Retired Reserve prior to the date insurance under the amendment made by section 5(a) of the Veterans' Insurance Act of 1974 (Public Law 93-289, 88 Stat. 166) is placed in effect for members of the Retired Reserve, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Administrator, directly to the administrative office established under section 766(b) of this title.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 3; P.L. 93-289, §§ 5(a)(1), (2), (3); P.L. 97-295, § 4(30); P.L. 99-576, § 701(38).)

(b) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, that, except as hereinafter provided, Servicemen's Group Life Insurance which is continued in force after expiration of the period of duty or travel under section 767(b) or 768(a) of this title, effective the day after the date such insurance would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Administrator, and (2) the terms and conditions set forth in section 777 of this title. Such automatic conversion shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) becomes effective. Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title shall not be converted to Veterans' Group Life Insurance. However, a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued, may, effective the day after the insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 777(e) of this title.

(Added P.L. 91-291, § 3; amended P.L. 93-289, § 5(a)(4); P.L. 99-576, § 701(38).)

§ 769. Deductions; payment; investment; expenses

(a)(1) During any period in which a member, on active duty or active duty for training under a call or order to such duty that does not specify a period of less than thirty-one days, is insured under Servicemen's Group Life Insurance, there shall be deducted each month from the member's basic or other pay until separation or release from such duty an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of section 765(5)(B) of this title, or is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 765(5)(C) of this title, and is insured under a policy of insurance purchased by the Administrator, under section 766 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made.

(3) During any fiscal year, or portion thereof, that a member is on active duty or active duty for training under a call or order to such duty that specifies a period of less than thirty-one days, or is authorized or required to perform inactive duty training scheduled in advance by competent authority, and is insured under Servicemen's Group Life Insurance, the Secretary concerned shall collect from the member (by deduction from pay or otherwise) an amount determined by the Administrator (which shall be the same for all

such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(4) Any amount not deducted from the basic or other pay of a member insured under Servicemen's Group Life Insurance, or collected from the member by the Secretary concerned, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount under paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof, determined by the Administrator to be charged under this section for Servicemen's Group Life Insurance may be continued from year to year, except that the Administrator may redetermine such monthly or fiscal year amounts from time to time in accordance with experience. No refunds will be made to any member of any amount properly deducted from the member's basic or other pay, or collected from the member by the Secretary concerned, to cover the insurance granted under Servicemen's Group Life Insurance.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 4(1); P.L. 93-289, § 6 (1), (2), (3); P.L. 99-576, § 701(39).)

(b) For each month for which any member is so insured, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator and certified to the Secretary concerned to be the cost of Servicemen's Group Life Insurance which is traceable to the extra hazard of duty in the uniformed services. Effective January 1, 1970, such cost shall be determined by the Administrator on the basis of the excess mortality incurred by members and former members of the uniformed services insured under Servicemen's Group Life Insurance above what their mortality would have been under peacetime conditions as such mortality is determined by the Administrator using such methods and data as the Administrator shall determine to be reasonable and practicable. The Administrator is authorized to make such adjustments regarding contributions from pay appropriations as may be indicated from actual experience.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 4(1); P.L. 93-289, § 6(4); P.L. 99-576, § 701(39).)

(c) An amount equal to the first amount due on Servicemen's Group Life Insurance may be advanced from current appropriations for active-service pay to any such member, which amount shall constitute a lien upon any service or other pay accruing to the person from whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance.

(Added P.L. 89-214, § 1(a); amended P.L. 93-289, § 6(5).)

(d)(1) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under subsection (a) of this section, and the sums contributed from appropriations under subsection (b) of this section, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments and extra hazard costs on Servicemen's Group Life Insurance and the administrative cost to the Veterans' Administration of insurance issued under this subchapter shall be paid from the revolving fund.

(2) The Administrator is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Veterans' Administration of insurance issued under this subchapter and all current premium payments and extra hazard costs on any insurance policy or policies purchased under section 766 of this title. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administrative costs to the Veterans' Administration which in the Administrator's judgment are properly allocable to insurance issued under this subchapter and shall transfer such cost from the revolving fund to the appropriation "General Operating Expenses, Veterans' Administration".

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 4(2); P.L. 93-289, §§ 6(6), 10(2); P.L. 99-576, § 701(39).)

(e) The premiums for Servicemen's Group Life Insurance placed in effect or continued in force for a member assigned to the Retired Reserve of a uniformed service who meets the qualifications of section 765(5)(C) of this title, shall be established under the criteria set forth in section 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as the Administrator may determine to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing or continuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. The provisions of sections 771(d) and (e) of this title shall be applicable to Servicemen's Group Life Insurance continued in force or issued to a member assigned to the Retired Reserve of a uniformed service. However, a separate accounting may be required by the Administrator for insurance issued to or continued in force on the lives of members assigned to the Retired Reserve and for other insurance in force under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

(Added P.L. 93-289, § 6(7); amended P.L. 99-576, § 701(39).)

(f) The Secretary of Defense shall prescribe regulations for the administration of the functions of the Secretaries of the military departments under this section. Such regulations shall prescribe such procedures as the Secretary of Defense, after consultation with the Administrator, may consider necessary to ensure that such functions are carried out in a timely and complete manner and in accordance with the provisions of this section, including specifically the provisions of subsection (a)(2) of this section relating to contributions from appropriations made for active duty pay.

(Added P.L. 97-66, § 402.)

(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(Added P.L. 100-322, § 332(a).)

§ 770. Beneficiaries; payment of insurance

(a) Any amount of insurance under this subchapter in force on any member or former member on the date of the insured's death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of the insured's death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the member or former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemen's Group Life Insurance, or (2) in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance;

Second, if there be no such beneficiary, to the widow or widower of such member or former member;

Third, if none of the above, to the child or children of such member or former member and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such member or former member or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such member or former member;

Sixth, if none of the above, to other next of kin of such member or former member entitled under the laws of domicile of such member or former member at the time of the insured's death.

(Added P.L. 89–214, § 1(a); amended P.L. 93–289, § 7(1); P.L. 99–576, § 701(40).)

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the member or former member, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased the member or former member, and any such payment shall be a bar to recovery by any other person.

(Added P.L. 89–214, § 1(a).)

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person.

(Added P.L. 89–214, § 1(a); amended P.L. 97–306, § 401(a)(1).)

(d) The member may elect settlement of insurance under this subchapter either in a lump sum or in thirty-six equal monthly installments. If no such election is made by the member the beneficiary or beneficiaries may elect settlement either in a lump sum or in thirty-six equal monthly installments. If the member has elected settlement in a lump sum, the beneficiary or beneficiaries may elect settlement in thirty-six equal monthly installments.

(Added P.L. 89–214, § 1(a).)

(e) Until and unless otherwise changed, a beneficiary designation and settlement option filed by a member with the member's uniformed service under prior provisions of law will be effective with respect to the increased insurance authorized under the Veterans' Insurance Act of 1974 and the insurance shall be settled in the same proportionate amount as the portion designated for such beneficiary or beneficiaries bore to the amount of insurance heretofore in effect.

(Added P.L. 91–291, § 5; amended P.L. 93–289, § 7(2); P.L. 99–576, § 701(40).)

(f) Notwithstanding the provisions of any other law, payment of matured Servicemen's Group Life Insurance or Veterans' Group Life Insurance benefits may be made directly to a minor, widow or widower on the member's own behalf, and payment in such case shall be a complete acquittance to the insurer.

(Added P.L. 91–291, § 5; amended P.L. 93–289, § 7(3).)

(g) Payments of benefits due or to become due under Servicemen's Group Life Insurance or Veterans' Group Life Insurance made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to (1) collection of amount not deducted from the member's pay, or collected from the member by the Secretary concerned under section 769(a) of this title, (2) levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (26 U.S.C. 6331 et seq.) (relating to the seizure of property for collection of taxes), and (3) the taxation of any property purchased in part or wholly out of such payments.

(Added P.L. 91-291, § 5; amended P.L. 93-289, § 7(3); P.L. 97-295, § 4(31).)

(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.

(Added P.L. 97-306, § 401(a)(2).)

§ 771. Basic tables of premiums; readjustment of rates

(a) Each policy or policies purchased under section 766 of this title shall include for the first policy year a schedule of basic premium rates by age which the Administrator shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company or companies issuing the policy on a basis determined by the Administrator in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(Added P.L. 89-214, § 1(a).)

(b) The total premiums for Servicemen's Group Life Insurance shall be the sum of the amounts computed according to the provisions of subsection (a) above and the estimated cost traceable to the extra hazard of active duty in the uniformed services as determined by the Administrator, subject to the provision that such estimated costs traceable to the extra hazard shall be retroactively readjusted annually in accordance with section 769(b).

(Added P.L. 89-214, § 1(a); amended P.L. 93-289, § 8(1).)

(c) Each policy so purchased shall include a provision that, in the event the Administrator determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administrator may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administrator during any policy year upon request by the insurance company or companies issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(Added P.L. 89-214, § 1(a).)

(d) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administrator on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Administrator may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administrator to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(Added P.L. 89-214, § 1(a).)

(e) Each such policy shall provide for an accounting to the Administrator not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administrator, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of item (1) over the sum of items (2) and (3) shall be held by the insurance company or companies issuing the policy as a special contingency reserve to be used by such insurance company or companies for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company or companies issuing the policy, which rate shall be approved by the Administrator as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administrator determines that such special contingency reserve has attained an amount estimated by the Administrator to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under section 769(d)(1) of this title. If and when such policy is discontinued, and if after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company or companies issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

(Added P.L. 89-214, § 1(a); amended P.L. 93-289, § 8(2).)

§ 772. Benefit certificates

The Administrator shall arrange to have each member insured under a policy purchased under section 766 of this title receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company or companies would otherwise be required to issue.

(Added P.L. 89-214, § 1(a).)

§ 773. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to Servicemen's Group Life Insurance under this subchapter. No such insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States.

(Added P.L. 89-214, § 1(a).)

§ 774. Advisory Council on Servicemen's Group Life Insurance

There is hereby established an Advisory Council on Servicemen's Group Life Insurance consisting of the Secretary of the Treasury as Chairman, the Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, the Secretary of Transportation, and the Director of the Office of Management and Budget each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener at the call of the Administrator, and shall review the operations under this subchapter and advise the Administrator on matters of policy relating to the Administrator activities thereunder.

(Added P.L. 89-214, § 1(a); amended P.L. 91-291, § 6; P.L. 93-289, § 10(3); P.L. 97-295, § 4(95)(A) P.L. 99-576, § 701(41).)

§ 775. Jurisdiction of District Courts

The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this subchapter.

(Added P.L. 89-214, § 1(a).)

§ 776. Effective date

The insurance provided for in this subchapter and the deductions and contributions for that purpose shall take effect on the date designated by the Administrator and certified by the Administrator to each Secretary concerned.

(Added P.L. 89-214, § 1(a); amended P.L. 99-576, § 701(42).)

§ 777. Veterans' Group Life Insurance

(a) Veterans' Group Life Insurance shall be issued in the amounts specified in section 767(a) of this title. In the case of any individual, the amount of Veterans' Group Life Insurance may not exceed the amount of Servicemen's Group Life Insurance coverage continued in force after the expiration of the period of duty or travel under section 767(b) or 768(a) of this title. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $50,000 at any one time. Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within sixty days after becoming so insured convert any or all of such person's Veterans' Group Life Insurance to an individual policy of insurance under subsection (e) of this section. However, if such a person dies within the sixty-day period and before converting such person's Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if such person is insured for less than $50,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $50,000.

(Added P.L. 93-289, § 9(a); amended P.L. 97-66, § 401(b); P.L. 99-166, § 401(b); P.L. 99-576, § 701(43).)

(b) Veterans' Group Life Insurance shall (1) provide protection against death; (2) be issued on a nonrenewable five-year term basis; (3) have no cash, loan, paid-up, or extended values; (4) except as otherwise provided, lapse for nonpayment of premiums; and (5) contain such other terms and conditions as the Administrator determines to be reasonable and practicable which are not specifically provided for in this section, including any provisions of this subchapter not specifically made inapplicable by the provisions of this section.

(Added P.L. 93-289, § 9(a).)

(c) The premiums for Veterans' Group Life Insurance shall be established under the criteria set forth in sections 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as the Administrator may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. In any case in which a member or former member who was mentally incompetent on the date such member or former member first became insured under Veterans' Group Life Insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for Veterans' Group Life Insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

(Added P.L. 93-289, § 9(a); amended P.L. 99-576, § 701(43).)

(d) Any amount of Veterans' Group Life Insurance in force on any person on the date of such person's death shall be paid, upon the establishment of a valid claim therefor, pursuant to the provisions of section 770 of this title. However, any designation of beneficiary or beneficiaries for Servicemen's Group Life Insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for Veterans' Group Life Insurance, but not for more than sixty days after the effective date of the insured's Veterans' Group Insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's Veterans' Group Life Insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for Veterans' Group Life Insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 766(b) of this title.

(Added P.L. 93-289, § 9(a); amended P.L. 99-576, § 701(43).)

(e) An insured under Veterans' Group Life Insurance shall have the right to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company the insured selects and payment of the required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after the insured again became so insured. Upon request to the administrative office established under section 766(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter, the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administrator and agree to sell insurance to former members in accordance with the provisions of this section.

(Added P.L. 93-289, § 9(a); amended P.L. 99-576, § 701(43).)

(f) The provisions of sections 771(d) and (e) of this title shall be applicable to Veterans' Group Life Insurance. However, a separate accounting shall be required for each program of insurance authorized under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

(Added P.L. 93-289, § 9(a).)

(g) Any person whose Servicemen's Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) became effective, and whose coverage under Servicemen's Group Life Insurance terminated less than four years prior to such date, shall be eligible within one year from the effective date of the Veterans' Group Life Insurance program to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of the insured's Servicemen's Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemen's Group Life Insurance and the effective date on which the Veterans' Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 766(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of the excess mortality attributable to such veteran's service-connected disabilities. The Administrator may establish, as the Administrator may determine to be necessary according to sound actuarial principles, a separate premium, age groupings for premium purposes, accounting, and reserves, for persons granted insurance under this subsection different from those established for other persons granted insurance under this section. Appropriations to carry out the purpose of this section are hereby authorized.

(Added P.L. 93-289, § 9(a); amended P.L. 99-576, § 701(43).)

(h)(1) Notwithstanding any other provision of law, members of the Individual Ready Reserve and the Inactive National Guard are eligible to be insured under Veterans' Group Life Insurance. Any such member shall be so insured upon submission of an application in the manner prescribed by the Administrator and the payment of premiums as required under this section.

(2) Notwithstanding subsection (b)(2) of this section, Veterans' Group Life Insurance coverage under this subsection shall be issued on a renewable five-year term basis, but the person insured must remain a member of the Individual Ready Reserve or Inactive National Guard throughout the period of the insurance in order for the insurance of such person to be renewed.

(3) For the purpose of this subsection, the terms "Individual Ready Reserve" and "Inactive National Guard" shall have the meanings prescribed by the Administrator in consultation with the Secretary of Defense.

(Added P.L. 99-166, § 401(b).)

§ 778. Reinstatement

Reinstatement of insurance coverage granted under this subchapter but lapsed for nonpayment of premiums shall be under terms and conditions prescribed by the Administrator.

(Added P.L. 93-289, § 9(a).)

§ 779. Incontestability

Subject to the provision of section 773 of this title, insurance coverage granted under this subchapter shall be incontestable from the date of issue, reinstatement, or conversion except for fraud or nonpayment of premium.

(Added P.L. 93-289, § 9(a).)

SUBCHAPTER IV—GENERAL

§ 781. Replacement of surrendered and expired insurance

(a) Any person who surrendered a policy of National Service Life Insurance or United States Government life insurance on a permanent plan for its cash value while in the active service after April 24, 1951, and before January 1, 1957, who was entitled on December 31, 1958, to reinstate or replace such insurance under section 623 of the National Service Life Insurance Act of 1940, may, upon application in writing made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Waiver of premiums and total disability income benefits otherwise authorized under this chapter shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section or the prior corresponding provision of law in which it is shown to the satisfaction of the Administrator that total disability of the applicant began before the date of application. The cost of the premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.

(b) Any person who had United States Government life insurance or National Service Life Insurance on the five-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case before January 1, 1957, who was entitled on December 31, 1958, to replace such insurance under section 623 of the National Service Life Insurance Act of 1940, shall, upon application made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for such person's then attained age.

(Amended P.L. 99-576, § 701(44).)

§ 782. Administrative cost

The United States shall bear the cost of administration in connection with this chapter, including expenses for medical examinations, inspections when necessary, printing and binding, and for such other expenditures as are necessary in the discretion of the Administrator.

§ 783. Settlements for minors or incompetents

When an optional mode of settlement of National Service Life Insurance or United States Government life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by such beneficiary's fiduciary, person qualified under section 14 of title 25, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

(Amended P.L. 99-576, § 701(45).)

§ 784. Suits on insurance

(a) In the event of disagreement as to claim, including claim for refund of premiums, under contract of National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance between the Veterans' Administration and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the United States District Court for the District of Columbia or in the district court of the United States in and for the district in which such person or any one of them resides, and jurisdiction is conferred upon such courts to hear and determine all such controversies. All persons having or claiming to have an interest in such insurance may be made parties to such suit, and such as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct. In all cases where the Veterans' Administration acknowledges the indebtedness of the United States upon any such contract of insurance and there is a dispute as to the person or persons entitled to payment, a suit in the nature of a bill of interpleader may be brought at the request of the Veterans' Administration in the name of the United States against all persons having or claiming to have any interest in such insurance in the United States District Court for the District of Columbia or in the district court in and for the district in which any such claimant resides; however, no less than thirty days before instituting such suit the Veterans' Administration shall mail a notice of such intention to each of the persons to be made parties to the suit. The courts of appeals for the several circuits, including the District of Columbia, shall respectively exercise appellate jurisdiction and, except as provided in section 1254 of title 28, the decrees of such courts of appeals shall be final.

(b) No suit on yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made. For the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded. The limitation of six years is suspended for the period elapsing between the filing in the Veterans' Administration of the claim sued upon and the denial of the claim. However, if a claim is timely filed the claimant shall have not less than ninety days from the date of mailing of notice of denial within which to file suit. After June 28, 1936, notice of denial of the claim under a contract of insurance shall be by registered mail or by certified mail directed to the claimant's last address of record. Infants, insane persons, or persons under other legal disability, or persons rated as incompetent or insane by the Veterans' Administration shall have three years in which to bring suit after the removal of their disabilities. If suit is seasonably begun and fails for defect in process, or for other reasons not affecting the merits, a new action, if one lies, may be brought within a year though the period of limitation has elapsed. No State or other statute of limitations shall be applicable to suits filed under this section.

(Amended P.L. 86-507, § 1(32); P.L. 97-295, § 4(32)(A).)

(c) In any suit, action, or proceeding brought under the provisions of this section subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district. However, no writ of subpena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the court being first had upon proper application and cause shown. The word "district" and the words "district court" as used in this section shall be construed to include the District of Columbia and the United States District Court for the District of Columbia.

(Amended P.L. 97-295, § 4(32)(B).)

(d) Attorneys of the Veterans' Administration, when assigned to assist in the trial of cases, and employees of the Veterans' Administration when ordered in writing by the Administrator to appear as witnesses, shall be paid the regular travel and subsistence allowance paid to other employees when on official travel status.

(e) Part-time and fee-basis employees of the Veterans' Administration, in addition to their regular travel and subsistence allowance, when ordered in writing by the Administrator to appear as witnesses in suits under this section, may be allowed, within the discretion and under written orders of the Administrator, a fee in an amount not to exceed $50 per day.

(f) Employees of the Veterans' Administration who are subpenaed to attend the trial of any suit, under the provisions of this section, as witnesses for a party to such suit shall be granted court leave or authorized absence, as applicable, for the period they are required to be away from the Veterans' Administration in answer to such subpenas.

(g) Whenever a judgment or decree shall be rendered in an action brought under the provisions of this section, the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid; except that, in a suit brought by or on behalf of an insured during the insured's lifetime for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to the insured's attorney.

(Amended P.L. 99-576, § 701(46).)

(h) The term "claim" as used in this section means any writing which uses words showing an intention to claim insurance benefits; and the term "disagreement" means a denial of the claim, after consideration on its merits, by the Administrator or any employee or organizational unit of the Veterans' Administration heretofore or hereafter designated therefor by the Administrator.

(i) The Attorney General of the United States is authorized to agree to a judgment to be rendered by the chief judge of the United States court having jurisdiction of the case, pursuant to compromise approved by the Attorney General upon the recommendation of the United States attorney charged with the defense, upon such terms and for sums within the amount claimed to be payable, in any suit brought under the provisions of this section, on a contract of yearly renewable term insurance, and the Administrator shall make payments in accordance with any such judgment. The Comptroller General of the United States shall allow credit in the accounts of disbursing officers for all payments of insurance made in accordance with any such judgment. All such judgments shall constitute final settlement of the claim and no appeal therefrom shall be authorized.

§ 785. Decisions by the Administrator

Except in the event of suit as provided in section 784 of this title, or other appropriate court proceedings, all decisions rendered by the Administrator under the provisions of this chapter shall be final and conclusive on all questions of law or fact, and no other official of the United States shall have jurisdiction to review any such decisions.

§ 786. Deposits in and disbursements from trust funds

All cash balances in the United States Government Life Insurance Fund and the National Service Life Insurance Fund on January 1, 1959, together with all moneys thereafter accruing to such funds, including premiums, appropriated moneys, the proceeds of any sales of investments which may be necessary to meet current expenditures, and interest on investments, shall be available for disbursement for meeting all expenditures and making investments authorized to be made from such funds.

§ 787. Penalties

(a) Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in anywise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any application for insurance or reinstatement thereof, waiver of premiums or claim for benefits under National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance for any person, shall be fined not more than $1,000, or be imprisoned for not more than one year, or both.

(Amended P.L. 99-576, § 701(47).)

(b) Whoever in any claim for National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance makes any sworn statement of a material fact knowing it to be false, shall be guilty of perjury and shall be fined not more than $5,000, or be imprisoned for not more than two years, or both.

§ 788. Savings provision

Nothing in this title or any amendment or repeal made by the Act enacting this title shall affect any right, remedy, liability, authorization or requirement pertaining to Government insurance, the respective insurance funds, or the insurance appropriations, authorized or prescribed under the provisions of the War Risk Insurance Act, the World War Veterans' Act, 1924, the National Service Life Insurance Act of 1940, or any related Act, which was in effect on December 31, 1958.

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

Sec.
801. Veterans eligible for assistance.
802. Limitations on assistance furnished.
803. Furnishing of plans and specifications.
804. Benefits additional to benefits under other laws.
805. Nonliability of United States.
806. Veteran's Mortgage Life Insurance.

§ 801. Veterans eligible for assistance

(a) The Administrator is authorized, under such regulations as the Administrator may prescribe, to assist any veteran who is entitled to compensation under chapter 11 of this title for permanent and total service-connected disability—

(1) due to the loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) which includes (A) blindness in both eyes, having only light perception, plus (B) loss or loss of use of one lower extremity, or

(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,

in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor. The regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

(Amended P.L. 86–239; P.L. 88–401; P.L. 91–22, § 1; P.L. 95–117, § 401; P.L. 96–385, § 301(a); P.L. 99–576, §§ 701(48), 702(7).)

(b)(1) Subject to paragraph (2) of this subsection, the Administrator, under regulations which the Administrator shall prescribe, shall assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability which—

(A) is due to blindness in both eyes with 5/200 visual acuity or less, or

(B) includes the anatomical loss or loss of use of both hands, in acquiring such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability or in acquiring a residence already adapted with special features determined by the Administrator to be reasonably necessary for the veteran because of such disability.

(2) Assistance under paragraph (1) of this subsection may be provided only to a veteran who the Administrator determines is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family or, if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.

(Added P.L. 96-385, § 301(a); P.L. 99-576, § 401(a).)

§ 802. Limitations on assistance furnished

(a) The assistance authorized by section 801(a) of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed $38,000 in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by such veteran, the Administrator shall pay not to exceed 50 percent of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of such veteran's disability, acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed (A) the cost to the veteran of such remodeling; or (B) 50 percent of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(Amended P.L. 91-22, § 2; P.L. 91-506, § 6; P.L. 92-341; P.L. 93-569, § 9; P.L. 95-476, § 101; P.L. 96-385, § 301(b)(1), (2); P.L. 97-66, § 502(1); P.L. 97-295, § 4(33); P.L. 98-543, § 304(a); P.L. 100-322, § 301.)

(b) Except as provided in section 804(b) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

(1) the actual cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

(2) $6,500.

(Added P.L. 96-385, § 301(b)(3); amended P.L. 97-66, § 502(2); P.L. 98-543, § 304(a); P.L. 99-576, § 401(b); P.L. 100-322, § 301.)

§ 803. Furnishing of plans and specifications

The Administrator is authorized to furnish to veterans eligible for assistance under this chapter, without cost to the veterans, model plans and specifications of suitable housing units.

§ 804. Benefits additional to benefits under other laws

(a) Any veteran who accepts the benefits of this chapter shall not by reason thereof be denied the benefits of chapter 37 of this title; however, except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title shall not be available to any veteran more than once.

(Amended P.L. 96-385, § 301(c)(1), (2).)

(b) A veteran eligible for assistance under section 801(b) of this title shall not by reason of such eligibility be denied benefits for which such veteran becomes eligible under section 801(a) of this title or benefits relating to home health services under section 612(a) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to a veteran under section 612(a) of this title may be provided to such veteran under section 801(b) of this title.

(Added P.L. 96-385, § 301(c)(3).)

§ 805. Nonliability of United States

The Government of the United States shall have no liability in connection with any housing unit, or necessary land therefor, or adaptation acquired under the provisions of this chapter.

(Amended P.L. 96-385, § 301(d).)

§ 806. Veterans' Mortgage Life Insurance

(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the "Veterans Insurance and Indemnities" appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

(2) The veteran's seventieth birthday.

(3) Termination of the veteran's ownership of the property securing the loan.

(4) Discontinuance of payment of premiums by the veteran.

(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.

(Amended P.L. 100-322, § 333(a).)

CHAPTER 23—BURIAL BENEFITS

Sec.
901. Flags.
902. Funeral expenses.
903. Death in Veterans' Administration facility; plot allowance.
904. Claims for reimbursement.
905. Persons eligible under prior law.
906. Headstones, markers, and grave liners.
907. Death from service-connected disability.
908. Transportation of deceased veteran to a national cemetery.

§ 901. Flags

(a) The Administrator shall furnish a flag to drape the casket of each deceased veteran who—

(1) was a veteran of any war, or of service after January 31, 1955;

(2) had served at least one enlistment; or

(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.

(Amended P.L. 87-240; P.L. 89-358, § 9; P.L. 91-588, § 9(g)(1).)

(b) After the burial of the veteran the flag so furnished shall be given to the veteran's next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(Amended P.L. 99-576, § 701(50).)

(c) For the purpose of this section, the term "Mexican border period" as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916.

(Added P.L. 87-240; amended P.L. 91-588, § 9(g)(2).)

(d) In the case of any person who died while in the active military, naval, or air service after May 27, 1941, the Administrator shall furnish a flag to the next of kin, or to such other person as the Administrator deems most appropriate, if such next of kin or other person is not otherwise entitled to receive a flag under this section, or under section 1482(a) of title 10, United States Code.

(Added P.L. 90-77, § 402.)

(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.

(Added P.L. 97-306, § 402(a).)

§ 902. Funeral expenses

(a) In the case of a deceased veteran—

(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or

(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Administrator determines—

(A) that there is no next of kin or other person claiming the body of the deceased veteran, and

(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

(Amended P.L. 89-360; P.L. 95-476, § 203(b)(1), (2); P.L. 95-479, § 303(a); P.L. 97-35, § 2001(a)(1); P.L. 97-306, § 403.)

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of the death of such veteran, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

(Amended P.L. 88-359; P.L. 95-476, § 203(b)(3).)

§ 903. Death in Veterans' Administration facility; plot allowance

(a) When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title or in an institution at which the deceased veteran was receiving hospital care in accordance with section 603 of this title or nursing home care under section

620 of this title at the expense of the United States at the time of death, the Administrator—

(1) shall pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(Amended P.L. 93-43, § 5(a)(1); P.L. 94-581, § 204; P.L. 95-479, § 303(a); P.L. 97-306, § 404(a); P.L. 99-272, § 19012(c).)

(b) In addition to the benefits provided for under section 902 of this title and subsection (a) of this section, in the case of a veteran who is eligible for a burial allowance under such section 902, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Administrator shall pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran; and

(2) if such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Administrator shall pay a sum not exceeding $150 as a plot or interment allowance to such person as the Administrator prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.

(Amended P.L. 86-70, § 29(a); P.L. 86-624, § 25(b); P.L. 87-99; P.L. 89-358, § 4(i); P.L. 93-43, § 5(a)(1); P.L. 95-476, § 202(a); P.L. 97-35, § 2001(b).)

§ 904. Claims for reimbursement

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of the veteran's discharge from the service, but after the veteran's death the veteran's discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from the date of correction of the discharge. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

(Amended P.L. 88-3; P.L. 91-24, § 7; P.L. 99-576, § 701(51).)

§ 905. Persons eligible under prior law

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

§ 906. Headstones, markers, and grave liners

(a) The Administrator shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 1002(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(4) Any individual described in section 1002(5) of this title who is buried in a veterans' cemetery owned by a State.

(Added P.L. 93-43, § 5(a)(2); amended P.L. 96-385, § 502).)

(b) The Administrator shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating any veteran—

(1) whose remains have not been recovered or identified,

(2) whose remains were buried at sea, whether by the veteran's own choice or otherwise,

(3) whose remains were donated to science, or

(4) whose remains were cremated and the ashes scattered without interment of any portion of the ashes,

for placement by the applicant in a national cemetery area reserved for such purpose under the provisions of section 1003 of this title or in a State, local, or private cemetery.

(Added P.L. 93-43, § 5(a)(2); amended P.L. 95-479, § 303(b); P.L. 97-66, § 603(a).)

(c) A headstone or marker furnished under subsection (a) or (b) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Administrator (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

(Added P.L. 95–476, § 203(a).)

(d) In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Administrator, in the Administrator's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such headstone or marker for the actual costs incurred by or on behalf of such person in acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. Reimbursement under the preceding sentence may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Administrator, of headstones and markers furnished under subsections (a) and (b) of this section.

(Added P.L. 95–476, § 203(a).)

(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.

(Added P.L. 100–322, § 344(a).)

§ 907. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) $1,500, or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 902 and 903(a)(1) and (b) of this title.

(Added P.L. 93–94, § 5(a)(2); amended P.L. 95–479, § 303(c); P.L. 100–322, § 303.)

§ 908. Transportation of deceased veteran to a national cemetery

Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Administrator may pay, in addition to any amount paid pursuant to section 902 or 907 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.

(Added P.L. 94–433, § 304(a).)

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

Sec.
1000. Establishment of National Cemetery System; composition of such system; appointment of director.
1001. Advisory Committee on Cemeteries and Memorials.
1002. Persons eligible for interment in national cemeteries.
1003. Memorial areas.
1004. Administration.
1005. Disposition of inactive cemeteries.
1006. Acquisition of lands.
1007. Authority to accept and maintain suitable memorials.
1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.
1009. Memorial areas in Arlington National Cemetery.

§ 1000. Establishment of National Cemetery System; composition of such system; appointment of director

(a) There shall be within the Veterans' Administration a National Cemetery System for the interment of deceased servicemembers and veterans. The Administrator may appoint a Director, National Cemetery System, who shall perform such functions as may be assigned by the Administrator.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(52).)

(b) The National Cemetery System shall consist of—

(1) national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973;

(2) cemeteries under the jurisdiction of the Veterans' Administration on the date of enactment of this chapter; and

(3) any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, or later acquired or developed by the Administrator.

(Added P.L. 93-43, § 2(a).)

§ 1001. Advisory Committee on Cemeteries and Memorials

There shall be appointed by the Administrator an Advisory Committee on Cemeteries and Memorials. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which the Administrator is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Administrator and to Congress.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(53).)

§ 1002. Persons eligible for interment in national cemeteries

Under such regulations as the Administrator may prescribe and subject to the provisions of section 3505 of this title, the remains of the following persons may be buried in any open national cemetery in the National Cemetery System:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

(5) The surviving spouse, minor child, and, in the discretion of the Administrator, unmarried adult child of any of the persons listed in paragraphs (1) through (4).

(6) Such other persons or classes of persons as may be designated by the Administrator.

(Added P.L. 93-94, § 2(a); amended P.L. 99-576, § 701(54).)

§ 1003. Memorial areas

(a) The Administrator shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

(Added P.L. 93-43, § 2(a); amended P.L. 97-66, § 603(b).)

(b) Under regulations prescribed by the Administrator, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(Added P.L. 93-43, § 2(a).)

(c) All national and other veterans' cemeteries in the National Cemetery System created by this chapter shall be considered national shrines as a tribute to our gallant dead and, notwithstanding the provisions of any other law, the Administrator is hereby authorized to permit appropriate officials to fly the flag of the United States of America at such cemeteries twenty-four hours each day.

(Added P.L. 93-43, § 2(a); amended P.L. 97-295, § 4(34).)

§ 1004. Administration

(a) The Administrator is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

(b) In conjunction with the development and administration of cemeteries for which the Administrator is responsible, the Administrator shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

(Amended P.L. 99-576, § 701(55).)

(c)(1) Subject to paragraph (2), each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Administrator shall by regulation prescribe.

(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after Janaury 1, 1987, except that—

(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Administrator may provide for flat grave markers;

(B) in the case of any cemetery with a section which has flat markers on the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, the Administrator may continue to provide for flat grave markets in such section;

(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.

(Amended P.L. 99-576, § 411; P.L. 100-322, § 341(a).)

(d) There shall be kept in each national cemetery, and at the main office of the Veterans' Administration, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which the veteran is buried, and such other information as the Administrator by regulation may prescribe.

(Amended P.L. 99-576, § 701(55).)

(e) In carrying out the Administrator's responsibilities under this chapter, the Administrator may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under the Administrator's jurisdiction as the Administrator shall choose, under such terms and conditions as the Administrator may prescribe.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(55).)

(f)(1) The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.

(Added P.L. 93-43, § 2(a); amened P.L. 100-322, § 342.)

(g) Notwithstanding any other provision of law, the Administrator may at such time as the Administrator deems desirable, relinquish to the State in which any cemetery, monument, or memorial under the Administrator's jurisdiction is located, such portion of legislative jurisdiction over the lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(55).)

§ 1005. Disposition of inactive cemeteries

(a) The Administrator may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within the Administrator's control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary for such system shall be available for the management and operation of such cemetery.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(56).)

(b) The Administrator may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereon, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Administrator, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

(Added P.L. 93-43, § 2(a).)

(c) If a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator may provide for the removal of remains from that cemetery to any cemetery within such System. The Administrator may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery to a national cemetery.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(56).)

§ 1006. Acquisition of lands

As additional lands are needed for national cemeteries, they may be acquired by the Administrator by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, or otherwise, as the Administrator determines to be in the best interest of the United States.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(57).)

§ 1007. Authority to accept and maintain suitable memorials

Subject to such restrictions as the Administrator may prescribe, the Administrator may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. The Administrator may make land available for this purpose, and may furnish such care and maintenance as the Administrator deems necessary.

(Added P.L. 93-43, § 2(a); amended P.L. 99-576, § 701(58).)

§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State.

Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.

(2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years, and such sums as may be necessary for fiscal year 1985 and for each of the nine succeeding fiscal years, for the purpose of making grants under paragraph (1) of this subsection.

(Added P.L. 95-476, § 202(b)(1); amended P.L. 98-223, § 202; P.L. 100-687, § 1601.)

(b) Grants under this section shall be subject to the following conditions:

(1) The amount of any grant under this section may not exceed an amount equal to 50 percent of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

(2) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (1) of this subsection, but the value of such land may not be used for more than an amount equal to 50 percent of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

(3) If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

(Added P.L. 95-476, § 202(b)(1); amended P.L. 100-322, § 343.)

(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Administrator may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Administrator shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries in the National Cemetery System, including those provided in subsections (b), (c), and (d) of section 1004 of this title.

(2) The Administrator may by regulation prescribe such additional terms and conditions for grants under this section as the Administrator considers appropriate.

(Added P.L. 95-476, § 202(b)(1).)

(d) Sums appropriated under subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.

(Added P.L. 95-476, § 202(b)(1).)

§ 1009. Memorial areas in Arlington National Cemetery

(a) The Secretary of the Army may set aside, when available, a suitable area or areas in Arlington National Cemetery, Virginia, to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

(b) Under regulations prescribed by the Secretary, appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(Added P.L. 99-576, § 413(a).)

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CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

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SUBCHAPTER I—PURPOSES; DEFINITIONS

§ 1401. Purposes

The purposes of this chapter are—

(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;

(4) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to

aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(5) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces; and

(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 100-48, § 5.)

§ 1402. Definitions

For the purposes of this chapter—

(1) The term "basic educational assistance" means educational assistance provided under subchapter II of this chapter.

(2) The term "supplemental educational assistance" means educational assistance provided under subchapter III of this chapter.

(3) The term "program of education"—

(A) has the meaning given such term in section 1652(b) of this title, and

(B) in the case of an individual who is not serving on active duty, includes (i) a full-time program of apprenticeship or of other on-job training approved as provided in clause (1) or (2), as appropriate, of section 1787(a) of this title, and (ii) a cooperative program (as defined in section 1682(a)(2) of this title).

(4) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10.

(5) The term "Secretary" means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(6) The term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 301(a); P.L. 100-689, §§ 108(a)(1), 111(a)(1).)

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§ 1411. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) who (I) serves, as the individual's initial obligated period of active duty, at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose initial period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, or for hardship; (II) for the convenience of the Government, in the case of an individual who completed not less than 20 months of continuous active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of continuous active duty if the initial obligated period of active duty of the individual was at least three years; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy; or

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty on October 19, 1984, and without a break in service since October 19, 1984, and—

(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, or for hardship; (II) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (III) involuntarily for the convenience of the Goverment as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;

(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-145, § 674; P.L. 99-576, §§ 307(a)(1), 321(1), 702(8); P.L. 100-48, § 3(a); P.L. 100-689, §§ 102(a), 104(a), 111(a)(2)(A).)

(b) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by $100 for each of the first 12 months that such individual is entitled to such pay. Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 303(a)(1); P.L. 100-689, § 103(b)(1).)

(c)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast

Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

(Added P.L. 98-525, § 702(a)(1).)

(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual's initial obligated period of active duty.

(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(Added P.L. 100-689, § 111(a)(3).)

§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) serves, as the individual's initial obligated period of active duty, at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) subject to subsection (b) of this section and after completion of the service on active duty described in subclause (i) of this clause, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty on October 19, 1984, and without a break in service since October 19, 1984, and—

(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) after June 30, 1985, subject to subsection (b) of this section and after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;

(2) who, before completion of the service described in clause (1) of this subsection, has completed the requirements of a secondary school diploma (or an equivalency certificate), except

that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

(B) continues on active duty or in the Selected Reserve;

is entitled to basic educational assistance under this chapter.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-145, § 674; P.L. 99-576, §§ 307(a)(2), 321(2); P.L. 100-48, § 3(b); P.L. 100-689, §§ 102(b)(1), 104(b), 111(a)(2)(B).)

(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, or (v) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected diability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Administrator determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service for the convenience of the Government, or (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) Continuity of service of a member in the Selected Reserve for purposes of such clauses shall not be considered to be broken—

(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 321(2); P.L. 100-689, § 102(b)(1).)

(c) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by $100 for each of the first 12 months that such individual is entitled to such pay. Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 303(a)(2); P.L. 100-689, § 103(b)(1).)

(d)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

(Added P.L. 98-525, § 702(a)(1).)

(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be con-

sidered entitled to educational assistance under section 1411 of this title and not under this section. Such an election is irrevocable.

(Added P.L. 100-689, § 105.)

§ 1413. Duration of basic educational assistance

(a)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1411 of this title is entitled to 36 months of educational assistance benefits under this chapter (or the equivalent thereof in part-time educational assistance).

(2) Subject to section 1795 of this title and subsection (c) of this section, in the case of an individual described in section 1411(a)(1)(A)(ii)(I) or (III) of this title who is not also described in section 1411(a)(1)(A)(i) of this title or an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title who is not also described in section 1411(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 321(3); P.L. 100-689, §§ 102(b)(2), 111(a)(4).)

(b) Subject to section 1795 of this title and subsection (c) of this section, each individual entitled to basic educational assistance under section 1412 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve after the applicable date specified in clause (1) of this subsection (other than any month in which the individual served on active duty).

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 321(3); P.L. 100-689, § 111(a)(4).)

(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

(2) Subject to section 1795 of this title, an individual described in clause (B) or (C) of section 1418(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 1418(c) and the denominator of which is $1,200; or

(B) the number of months the individual has served on continuous active duty after June 30, 1985.

(Added P.L. 100–689, § 103(b)(2).)

(d) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 36 months (or the equivalent thereof in part-time educational assistance).

(Added P.L. 98–525, § 702(a)(1); P.L. 100–689, § 103(b)(2).)

§ 1414. Payment of basic educational assistance

The Administrator shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education, a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(Added P.L. 98–525, § 702(a)(1).)

§ 1415. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except as otherwise provided in subsections (b) and (c) of this section, a basic educational assistance allowance under this subchapter shall be paid—

(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

(Amended P.L. 100–689, § 111(a)(5).)

(b) In the case of an individual entitled to an educational assistance allowance under section 1411 or 1418 of this title and whose initial obligated period of active duty is two years, a basic educational assistance allowance under this chapter shall be paid—

(1) at the monthly rate of $250 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

(Amended P.L. 100–689, § 103(b)(3).)

(c) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsections (a) and (b) of this section as the Secretary considers appropriate, but the amount of any such increase may not exceed $400 per month.

(d)(1) Subject to paragraph (2) of this subsection, in the case of an individual who on December 31, 1989, was entitled to educational assistance under chapter 34 of this title, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual under such chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

(2) The number of months for which the rate of the basic educational assistance allowance applicable to an individual is increased under paragraph (1) of this subsection may not exceed the number of months of entitlement to educational assistance under chapter 34 of this title that the individual had remaining on December 31, 1989.

(Added P.L. 98-525, § 702(a)(1).)

§ 1416. Inservice enrollment in a program of education

(a) A member of the Armed Forces who—

(1) first becomes a member or first enters on active duty as a member of the Armed Forces after June 30, 1985, and does not make an election under section 1411(c)(1) or section 1412(d)(1);

(2) completes at least two years of service on active duty after such date;

(3) after such service, continues on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title); and

(4) but for section 1411(a)(1)(A)(i)(I) or 1412(a)(1)(A)(ii) of this title would be eligible for basic educational assistance,

may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1)(A)(i)(I) or 1412(a)(1)(A)(ii) of this title.

(b) A member of the Armed Forces who—

(1) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title;

(2) after June 30, 1985, has served the two years required by section 1412(a)(1)(B)(i); and

(3) but for section 1412(a)(1)(B)(ii) of this title would be eligible for basic educational assistance,

may, after December 31, 1989, receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1412(a)(1)(B)(ii) of this title.

(Amended P.L. 99-576, § 321(4).)

(c) A member of the Armed Forces who—

(1) completes at least two years of service on active duty after June 30, 1985;

(2) after such service continues on active duty without a break in service; and

(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 1418(b)(2) of this title.

(Added P.L. 100-689, § 103(b)(4)

§ 1417. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) who—

(i) is entitled to basic educational assistance under this chapter; or

(ii) is on active duty in the Armed Forces and but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

(B) who dies while on active duty,

the Administrator shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemen's Group Life Insurance policy.

(ii) The surviving spouse of the individual.

(iii) The surviving child or children of the individual, in equal shares.

(iv) The surviving parent or parents of the individual, in equal shares.

(B) If no such person survives such individual, no payment shall be made under this section.

(b) The amount of any payment made under this section shall be equal to—

(1) the amount reduced from the individual's pay under section 1411(b), 1412(c), or 1418(c) of this title, less

(2) the total of—

(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter.

(Added P.L. 100-689, § 101(a).)

§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in the section referred to as the "open period"), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

(1) while serving on active duty during the open period, makes a withdrawal of such an election;

(2) continues to serve the period of service which, at the beginning of the open period such individual was obligated to serve;

(3)(A) serves the obligated period of service described in clause (2) of this subsection;

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Administrator determines is not service connected, or (iii) hardship; or

(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determned by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

(4) before completing such obligated period of service, has completed the requirements of a secondary school diploma (or an equivalency certificate); and

(5) upon completion of such obligated period of service—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 1411(c)(1) or 1412(d)(1) of this title shall be reduced by—

(1) $1,200; or

(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

(d) A withdrawal under subsection (b)(1) of this section is irrevocable.

(Added P.L. 100–689, § 103(a).)

§ 1419. Tutorial assistance

(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section.

(b) The amount of such benefits payable under this section may not exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of $600.

(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(Added P.L. 100–689, § 107(a).)

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

§ 1421. Supplemental educational assistance for additional service

(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1411 or 1418 of this title who—

(1) serves five or more consecutive years of active duty in the Armed Forces after the years of active duty counted under section 1411(a)(1) of this title without a break in such service; and

(2) after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty without a break in service; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Amended P.L. 99–576, § 321(5); P.L. 100–689, § 103(b)(5).)

(b) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1412 or 1418 of this title who—

(1) serves two or more consecutive years of active duty in the Armed Forces after the years of active duty counted under section 1412(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve after the years of duty in the Selected Reserve counted under such section without a break in service; and

(2) after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

(B) continues on active duty or in the Selected Reserve.

(Amended P.L. 99–576, § 321(5); P.L. 100–689, § 103(b)(5).)

(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(Amended P.L. 99–576, § 321(6).)

(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned qualifies for basic educational assistance may not be counted for purposes of this section.

(Added P.L. 98–525, § 702(a)(1).)

§ 1422. Amount of supplemental educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

(1) at a monthly rate of $300 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

(Amended P.L. 100-689, § 111(a)(5).)

(b) In the case of a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to such regulations, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary concerned considers appropriate, but the amount of any such increase may not exceed $300 per month.

(Added P.L. 98-525, § 702(a)(1).)

§ 1423. Payment of supplemental educational assistance under this subchapter

The Administrator shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

(Added P.L. 98-525, § 702(a)(1).)

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

§ 1431. Time limitation for use of eligibility and entitlement

(a) Except as provided in subsections (b) through (e) of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) of (B)(ii), respectively, of such section 1412(a)(1) is met; and

(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty on January 1, 1990.

(Amended P.L. 99–576, §§ 307(b)(1), 321(7); P.L. 100–689, § 111(a)(6).)

(b) In the case of any eligible individual who has been prevented, as determined by the Administrator, from pursuing a program of education under this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of this chapter before the nature of such individual's discharge or release was changed by appropriate authority, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

(Amended P.L. 99–576, § 321(7).)

(c) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Veterans' Administration medical facility.

(d) In the case of an individual eligible for educational assistance under this chapter—

(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(e) In the case of an individual described in section 1411(a)(1)(B) or 1412(a)(1)(B) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.

(Amended P.L. 99–576, § 307(b)(3).)

(f)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, §§ 307(b)(2), 321(7).)

§ 1432. Limitations on educational assistance for certain individuals

(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

(1) while on active duty; or

(2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the lesser of (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, or (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 301(d).)

(c)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chap-

ter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) of this subsection as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B) of this paragraph, for each month that an individual is paid a monthly educational assistance allowance under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B) of this subsection; and

(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C) of this subsection.

(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.

(Added P.L. 99-576, § 301(b), (d); amended P.L. 100-689, § 111(a)(8).)

(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 and section 1422, if applicable, of this title.

(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.

(Added P.L. 100-689, § 108(a)(2).)

(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

(B) For purposes of this paragraph, the term "established charge" means the lesser of—

(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

(ii) the actual charge to the individual for such course or courses.

(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.

(Added P.L. 100-689, § 111(a)(7).)

§ 1433. Bar to duplication of educational assistance benefits

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

(2) An individual entitled to educational assistance under chapter 34 of this title may not receive assistance under this chapter before January 1, 1990.

(Amended P.L. 99-576, § 306(a).)

(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

(c) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Administrator may prescribe) the program to which such service is to be credited.

(Added P.L. 98-525, § 702(a)(1); amended P.L. 99-576, § 306(b).)

§ 1434. Program administration

(a)(1) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1780(c), 1780(g), 1786(a), and 1787) shall be applicable to the provision of educational assistance under this chapter.

(2) The term "eligible veteran", as used in the provisions of the sections enumerated in paragraph (1) of this subsection, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

(Amended P.L. 99–576, §§ 301(c), 308(a); P.L. 100–689, §§ 106(a), 111(a)(7).)

(b) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education by an individual enrolled in or pursuing a program of education under this chapter for any period for which the individual receives educational assistance under this chapter. Subject to such reports and proof as the Administrator may require to show an individual's enrollment in and satisfactory pursuit of such individual's program, the Administrator may withhold payment of benefits to such individual until the required proof is received and the amount of the payment is appropriately adjusted.

(Amended P.L. 99–576, § 305.)

(c) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

(Added P.L. 98–525, § 702(a)(1); amended P.L. 99–576, § 302; P.L. 100–689, § 111(a)(7).)

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§ 1435. Allocation of administration and of program costs

(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Veterans' Administration.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Veterans' Administration for the payment of readjustment benefits.

(2) Payments for entitlement earned under subchapter II of this chapter that is established under section 1415(c) of this title at a rate in excess of the rate prescribed under subsection (a) or (b) of section 1415 of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(Amended P.L. 99–576, § 321(8).)

(c) Payments for educational assistance provided under subchapter III of this chapter shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(d) Funds for the payment by the Administrator of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans' Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the Treasury. Funds for the payment by the Administrator of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

(Added P.L. 98-525, § 702(a)(1).)

(e) Payments for tutorial assistance benefits under section 1419 of this title shall be made—

(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

(2) in the case of payments to an individual for such benefits in excess of $600, from—

(A) funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits;

(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

(C) funds appropriated to the Department of Transportation,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter.

(Added P.L. 100-689, § 107(a).)

§ 1436. Reporting requirement

(a) The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

(b) The Secretary shall include in each report submitted under this section—

(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

(c) The Administrator shall include in each report submitted under this section—

(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to

members of the Armed Forces and veterans, and their dependents, as the Administrator considers appropriate.

(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than January 1, 1986.

(2) The first report by the Administrator under this section shall be submitted not later than January 1, 1988.

(Added P.L. 98-525, § 702(a)(1).)

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

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§ 1500. Purposes

The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

(Added P.L. 96–466, § 101(a).)

§ 1501. Definitions

For the purposes of this chapter—

(1) The term "employment handicap" means an impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(2) The term "independence in daily living" means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

(3) The term "program of education" has the meaning provided in section 1652(b) of this title.

(4) The term "program of independent living services and assistance" includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living,

including such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Administrator to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

(5) The term "rehabilitated to the point of employability" means rendered employable in an occupation for which a vocational rehabilitation program has been provided under this chapter.

(6) The term "rehabilitation program" means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be currently reasonably feasible.

(7) The term "serious employment handicap" means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(8) The term "vocational goal" means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests.

(9) The term "vocational rehabilitation program" includes—

(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be currently reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

(Amended P.L. 93-508, § 101(1); P.L. 96-466, § 101(a); P.L. 99-576, § 333(b)(1).)

§ 1502. Basic entitlement

A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if such person—

(1)(A) is a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940, or (B) is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Administrator determines will likely be compensable under chapter 11 of this title; and

(2) is determined by the Administrator to be in need of rehabilitation because of an employment handicap.

(Amended P.L. 86-721, § 3; P.L. 87-815, § 7(a)-(c); P.L. 89-138, § 2(2); P.L. 90-631, § 1(a); P.L. 92-540, §§ 101(1), 301; P.L. 93-508, § 101(2); P.L. 94-502, § 104(1); P.L. 96-466, § 101(a).)

§ 1503. Periods of eligibility

(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

(Added P.L. 89-138, § 1; amended P.L. 91-24, § 8; P.L. 94-502, § 104(2); P.L. 96-466, § 101(a).)

(b)(1) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

(2) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

(A) such veteran had not met the requirement of a discharge or release from active military, naval, or air service under conditions other than dishonorable before (i) the nature of such discharge or release was changed by appropriate authority, or (ii) the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions other than dishonorable, or

(B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator made a determination that such discharge or dismissal is not a bar to such benefits,

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(3) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibil-

ity prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability described in section 1502(1)(A) of this title, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

(Added P.L. 89–138, § 1; amended P.L. 94–502, § 104(2); P.L. 96–466, § 101(a).)

(c) In any case in which the Administrator determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines, on the basis of such veteran's particular employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

(1) that such veteran had not previously been rehabilitated to the point of employability;

(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's employment handicap and capabilities; or

(3) under regulations which the Administrator shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(Added P.L. 89–138, § 1; amended P.L. 94–502, §§ 102, 104(3); P.L. 96–466, § 101(a).)

(d) In any case in which the Administrator has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

(Added P.L. 96–466, § 101(a); amended P.L. 99–576, § 333(b)(2).)

§ 1504. Scope of services and assistance

(a) Services and assistance which the Administrator may provide under this chapter, pursuant to regulations which the Administrator shall prescribe, include the following:

(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether such veteran's disability or disabilities cause a serious em-

ployment handicap and whether a vocational goal is feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate.

(2) Educational, vocational, psychological, employment, and personal adjustment counseling.

(3) An allowance and other appropriate assistance, as authorized by section 1508 of this title.

(4) A work-study allowance as authorized by section 1685 of this title.

(5) Placement services to effect suitable placement in employment, and postplacement services to attempt to insure satisfactory adjustment in employment.

(6) Personal adjustment and work adjustment training.

(7) Vocational and other training services and assistance, including (A) individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case, and (B) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act.

(8) Loans as authorized by section 1512 of this title.

(9) Treatment, care, and services described in chapter 17 of this title.

(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices.

(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran.

(12) For the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Administrator determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Administrator shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage.

(14) Special services (including services related to blindness and deafness) including—

(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

(C) telecommunications, sensory, and other technical aids and devices.

(15) Services necessary to enable a veteran to achieve maximum independence in daily living.

(16) Other incidental goods and services determined by the Administrator to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

(Added P.L. 94-502, § 104(4); amended P.L. 96-466, § 101(a); P.L. 100-323, § 11(a).)

(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796).[1]

(Amended P.L. 89-137, § 1(a); P.L. 90-431; P.L. 91-219, § 101; P.L. 92-540, § 101(2); P.L. 93-508, § 101(3); P.L. 93-602, § 202; P.L. 94-502, § 101; P.L. 95-202, § 101; P.L. 96-466, § 101(a).)

(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Administrator.

§ 1505. Duration of rehabilitation programs

(a) In any case in which the Administrator is unable to determine whether it currently is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 1506(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

(Amended P.L. 94-502, § 104(5); P.L. 96-466, § 101(a); P.L. 99-576, § 333(b)(3).)

(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Administrator determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

(Amended P.L. 94-502, § 104(5); P.L. 96-466, § 101(a); P.L. 99-576, § 333(b)(3).)

(c) The Administrator may extend the period of a vocational rehabilitation program for a veteran to the extent that the Administrator determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Administrator also determines—

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[1] So in original. Reference should be to "(29 USC 796a)".

(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such veteran's employment handicap and capabilities; or

(2) under regulations which the Administrator shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(Amended P.L. 94–502, § 104(5); P.L. 96–466, § 101(a).)

(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Administrator that such veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible) may not exceed twenty-four months.

(Amended P.L. 94–502, § 104(5); P.L. 96–466, § 101(a); P.L. 99–576, § 333(b)(3).)

§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Administrator shall provide any veteran who has a service-connected disability described in section 1502(1)(A) or (B) of this title and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal currently is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(Amended P.L. 96–466, § 101(a); P.L. 99–576, § 333(b)(4).)

(b) In any case in which the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

(Amended P.L. 96–466, § 101(a); P.L. 99–576, § 333(b)(4).)

(c) In any case in which the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

(Amended P.L. 96–466, § 101(a); P.L. 99–576, § 333(b)(4).)

(d) The Administrator shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 1505(a) of this title), the Administrator shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Administrator shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(Amended P.L. 96–466, § 101(a); P.L. 99–576, § 333(b)(4).)

(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Administrator shall assign a Veterans' Administration employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

(Amended P.L. 96–466, § 101(a).)

§ 1507. Individualized vocational rehabilitation plan

(a) The Administrator shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

(Amended P.L. 92–540, § 101(3); P.L. 94–502, § 104(6); P.L. 96–466, § 101(a).)

(b) The Administrator shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the Administrator shall (1) redevelop such plan with such veteran if the Administrator determines, under regulations which the Administrator shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the Administrator determines, under such regulations, that redevelopment of such plan is not appropriate.

(Amended P.L. 92-540, § 101(3); P.L. 94-502, § 104(6); P.L. 96-466, § 101(a).)

(c)(1) Each veteran for whom a plan has been developed or redeveloped under subsection (a) or (b)(1), respectively, of this section or in whose case redevelopment of a plan has been disapproved under subsection (b)(2) of this section, shall be informed of such veteran's opportunity for a review as provided in paragraph (2) of this subsection.

(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section 1506(e) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

(3) The Administrator shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the Administrator, in which case the Administrator shall render a decision no later than the last day of the period prescribed in such regulations.

(Amended P.L. 92-540, § 101(3); P.L. 94-502, § 104(6); P.L. 96-466, § 101(a).)

§ 1508. Allowances

(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Administrator to be a period of such veteran's participation under this chapter in a rehabilitation program.

(2) In any case in which the Administrator determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

(3) A subsistence allowance may not be paid under this chapter to a veteran for any period during which such veteran is being provided with an initial evaluation under section 1506(a) of this title or during which such veteran is being provided only with counseling or with placement or postplacement services under section 1505(b) of this title.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$310	$384	$452	$33
Three-quarter-time	233	288	339	25
Half-time	155	193	227	17
Farm cooperative, apprentice, or other on-job training:				
Full-time	271	327	377	24
Extended evaluation:				
Full-time	310	384	452	33
Independent living training:				
Full-time	310	384	452	33
Three-quarter-time	233	288	339	25
Half-time	155	193	227	17

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a); P.L. 98-543, § 201.)

(c)(1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Administrator a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Administrator shall establish in regulations which the Administrator shall prescribe.

(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal agency under the provisions of section 1515(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

(d)(1) The Administrator shall, in accordance with regulations which the Administrator shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Administrator shall prescribe.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Administrator may (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

(f)(1)(A) In any case in which the Administrator determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 30 or 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under either chapter 30 or chapter 34 of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter 30 or 34 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 1504(a)(3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a); P.L. 98-525, § 703(a).)

(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a); P.L. 97-306, § 205(a).)

(h) Notwithstanding any other provision of this title, the amount of subsistence allowance, or other allowance under subsection (f) of this section, that may be paid to a veteran pursuing a rehabilitation program for any month for which such veteran receives compensation at the rate prescribed in section 314(j) of this title as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the Veterans' Administration may not exceed, when added to any compensation to which such veteran is entitled for such month, an amount equal to the greater of—

(1) the sum of—

(A) the amount of monthly subsistence or other allowance that would otherwise be paid to such veteran under this section, and

(B) the amount of monthly compensation that would be paid to such veteran if such veteran were not receiving compensation at such rate as the result of such hospital treatment or observation; or

(2) the amount of monthly compensation payable under section 314(j) of this title.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

(Amended P.L. 94-502, § 104(7); P.L. 96-466, § 101(a).)

§ 1509. Entitlement to independent living services and assistance

In any case in which the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran currently is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

(Amended P.L. 94-502, §§ 104(8), (9); P.L. 96-466, § 101(a); P.L. 99-576, § 333(b)(5).)

§ 1510. Leaves of absence

The Administrator shall prescribe such regulations as the Administrator determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

(Amended P.L. 94-502, § 104(10); P.L. 96-466, § 101(a).)

§ 1511. Regulations to promote satisfactory conduct and cooperation

The Administrator shall prescribe such rules and regulations as the Administrator determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. In any case in which the Administrator determines that a veteran has failed to maintain satisfactory conduct or cooperation, the Administrator may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Administrator determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Administrator may reinstitute such services and assistance only if the Administrator determines that—

(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

(Amended P.L. 94-502, §§ 103, 104(11); P.L. 96-466, § 101(a).)

§ 1512. Revolving fund loans

The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents (as provided in section 1508(b) of this title) to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

(Added P.L. 96-466, § 101(a).)

§ 1513. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

(a) Services and assistance may be provided under this chapter to a person described in section 1502 (1)(B) and (2) of this title who is hospitalized pending discharge from active military, naval, or air service. In such cases, no subsistence allowance shall be paid.

(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

(Added P.L. 96-466, § 101(a).)

§ 1514. Vocational rehabilitation outside the United States

Under regulations which the Administrator shall prescribe, a vocational rehabilitation program under this chapter may be provided outside the United States if the Administrator determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

(Added P.L. 96-466, § 101(a).)

§ 1515. Rehabilitation resources

(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Administrator may—

(1) use the facilities of any Federal agency (including the Veterans' Administration), or of any State or local government agency receiving Federal financial assistance, to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay in any case in which the Administrator determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

(2) use the facilities, staff, and other resources of the Veterans' Administration;

(3) employ such additional personnel and experts as the Administrator considers necessary; and

(4) use the facilities and services of any Federal, State, or other public agency, any agency maintained by joint Federal and State contributions, any public or private institution or establishment, and any private individual.

(Added P.L. 96-466, § 101(a); amended P.L. 100-689, § 201.)

(b)(1) While pursuing on-job training or work experience under subsection (a)(1) of this section at a Federal agency, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

(2) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Administrator has direct jurisdiction.

(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.

(Added P.L. 96-466, § 101(a); amended P.L. 100-689, § 201.)

§ 1516. Promotion of employment and training opportunities

(a) The Administrator shall actively promote the development and establishment of employment, training, and other related opportunities for (1) veterans who are participating or who have participated in a rehabilitation program under this chapter, (2) veterans with service-connected disabilities, and (3) other veterans to whom the employment emphases set forth in chapter 42 of this title apply. The Administrator shall promote the development and establishment of such opportunities through Veterans' Administration staff outreach efforts to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations. In carrying out the provisions of this subsection with respect to veterans referred to in clause (3) of the first sentence of this subsection, the Administrator shall place particular emphasis on the needs of categories of such veterans on the basis of applicable rates of unemployment.

(Added P.L. 96-466, § 101(a).)

(b)(1) The Administrator, pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual cases in which the Administrator determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity.

(2) In any case in which a veteran described in paragraph (1) of this subsection participates in on-job training described in such paragraph that satisfies the criteria for payment of a training assistance allowance under section 1787 of this title, such veteran shall, to the extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance.

(3) The Administrator shall prescribe regulations under this subsection in consultation with the Secretary of Labor and, in prescribing such regulations, shall take into consideration the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V) and section 2012 of this title, and regulations prescribed under such provisions.

(Added P.L. 96-466, § 101(a).)

§ 1517. Employment assistance

(a)(1) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who the Administrator has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training.

(2) Assistance provided under this subsection may include—

(A) direct placement of such veteran in employment;

(B) utilization of the services of disabled veterans outreach program specialists under section 2003A of this title; and

(C) utilization of the job development and placement services of (i) programs under the Rehabilitation Act of 1973, (ii) the State employment service and the Veterans' Employment Service of the Department of Labor, (iii) the Office of Personnel Management, (iv) any other public or nonprofit organization having placement services available, and (v) any for-profit entity in a case in which the Administrator has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.

(Added P.L. 96-466, § 101(a); amended P.L. 100-689, § 202(a).)

(b)(1) In any case in which a veteran has completed a vocational rehabilitation program for self-employment in a small business enterprise under this chapter, the Administrator shall assist such veteran in securing, as appropriate, a loan under subchapter IV of chapter 37 of this title and shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to insure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

(2) In the case of a veteran described in clause (12) of section 1504(a) of this title who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise, the Administrator may, subject to the limitations and criteria provided for in such clause, provide such veteran with such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

(Added P.L. 96-466, § 101(a)); amended P.L. 97-72, § 303(k).)

§ 1518. Personnel training, development, and qualifications

(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

(Added P.L. 96-466, § 101(a).)

(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

(Added P.L. 96–466, § 101(a).)

(c) Notwithstanding any other provision of law, the Administrator shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(e) of this title as the Administrator determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Administrator shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

(Added P.L. 96–466, § 101(a).)

§ 1519. Rehabilitation research and special projects

(a) The Administrator shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

(Added P.L. 96–466, § 101(a).)

(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

(Added P.L. 96–466, § 101(a).)

(c) The Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

(Added P.L. 96–466, § 101(a).)

§ 1520. Program of independent living services and assistance

(a)(1) During fiscal years 1982 through 1989, the Administrator may, under contracts with entities described in paragraph (7) of this subsection, or through facilities of the Department of Medicine and Surgery, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in paragraph (2) of this subsection.

(2) A program of independent living services and assistance may be made available under this section only to a veteran who has a service-connected disability described in section 1502(1)(A) of this title and with respect to whom it is determined under section 1506(d) of this title that the achievement of a vocational goal currently is not reasonably feasible and who is selected pursuant to criteria provided for in regulations prescribed under paragraph (1) of this subsection.

(3) The Administrator shall, to the maximum extent feasible, include among those veterans who are provided with programs of independent living services and assistance under this section substantial numbers of veterans described in paragraph (2) of this subsection who are receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the Administrator contracts for the provision of care to veterans.

(4) A program of independent living services and assistance for a veteran shall consist of such services described in section 1504(a) and (b) of this title as the Administrator determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 1507 of this title.

(5) Any contract for services initiated with respect to any veteran under this section before the end of fiscal year 1989 may be continued in effect after the end of such year for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter.

(6) Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through 1989, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.

(Added P.L. 96-466, § 101(a); amended P.L. 99-576, § 333(a), (b)(6); P.L. 100-689, § 202(b).)

(b) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regarding veterans' participation in the program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the Administrator for administrative or legislative action or both regarding the program.

(Added P.L. 96-466, § 101(a); amended P.L. 99-576, § 333(c).)

§ 1521. Veterans' Advisory Committee on Rehabilitation

(a)(1) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Administrator from the general public and shall serve for terms to be determined by the Administrator not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Administrator may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

(3) The Committee shall also include as ex officio members the following: (A) one representative from the Department of Medicine and Surgery and one from the Department of Veterans' Benefits, (B) one representative from the Rehabilitation Services Administration of the Department of Education and one from the National Institute for Handicapped Research of the Department of Education, and (C) one representative of the Assistant Secretary of Labor for Veterans' Employment of the Department of Labor.

(Added P.L. 96-466, § 101(a).)

(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

(Added P.L. 96-466, § 101(a).)

(c) The Committee shall submit to the Administrator an annual report on the rehabilitation programs and activities of the Veterans' Administration and shall submit such other reports and recommendations to the Administrator as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.

(Added P.L. 96-466, § 101(a).)

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE [1]

SUBCHAPTER I—PURPOSE; DEFINITIONS

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SUBCHAPTER I—PURPOSE; DEFINITIONS

§ 1601. Purpose

It is the purpose of this chapter (1) to provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976, and before July 1, 1985, (2) to assist young men and women in obtaining an education they might not otherwise be able to afford, and (3) to promote and assist the all volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces.

(Added P.L. 94-502, § 404; amended P.L. 99-576, § 309(a)(1).)

§ 1602. Definitions

For the purposes of this chapter—

(1)(A) The term "eligible veteran" means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, and before July 1, 1985, served on active duty for a period of more than 180 days commencing on or after January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, and before July 1, 1985, and was discharged or released from active duty after January 1, 1977 for a service-connected disability.

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[1] Section 704 of P.L. 98-525 provides:

Sec. 704. No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code, during the period beginning on July 1, 1985, and ending on June 30, 1988.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who has completed their first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(C) For the purposes of subparagraphs (A) and (B), the term "active duty" does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(D)(i) The requirement of ineligibility for educational assistance under chapter 34 of this title, prescribed in subparagraph (A), shall be waived in the case of a veteran described in division (ii) of this subparagraph who elects to receive benefits under this chapter instead of assistance under such chapter 34. A veteran who makes such an election shall be ineligible for assistance under such chapter. Such an election is irrevocable.

(ii) A veteran referred to in division (i) of this subparagraph is a veteran who before January 1, 1977, performed military service described in subparagraph (C)(iii), is entitled under section 1652(a)(3)(C) of this title to have such service considered to be "active duty" for the purposes of chapter 34 of this title, and is eligible for assistance under such chapter only by reason of having such service considered to be active duty.

(2) The terms "program of education"—

(A) has the meaning given such term in section 1652(b) of this title, and

(B) includes (i) a full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 1787(a) of this title, and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 1682(a)(2) of this title).

(3) The term "participant" is a person who is participating in the educational benefits program established under this chapter.

(4) The term "educational institution" has the meaning given such term in section 1652(c) of this title.

(5) The term "training establishment" has the meaning given such term in section 1652(e) of this title.

(Added P.L. 94-502, § 404; amended; P.L. 96-466, § 401; P.L. 98-223, § 203(a); P.L. 99-576, §§ 309(a)(2), 310(a); P.L. 100-689, § 108(b)(1).)

SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

§ 1621. Eligibility

(a) Each person entering military service on or after January 1, 1977, and before July 1, 1985, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the "program" except where the text indicates otherwise) at any time during such person's service on active duty before July 1, 1985. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

(Added P.L. 94-502, § 404; amended P.L. 99-576, § 309(a)(3).)

(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the Administrator and the Secretary of Defense (hereinafter in this chapter referred to as the "Secretary"), or (2) the participant is discharged or released from active duty.

(Added P.L. 94-502, § 404.)

(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the Administrator and the Secretary.

(Added P.L. 94-502, § 404.)

(d) If a participant disenrolls from the program, such participant forfeits any entitlement to benefits under the program except as provided in subsection (e) of this section. A participant who disenrolls from the program is eligible for a refund of such participant's contributions as provided in section 1623 of this title.

(Added P.L. 94-502, § 404.)

(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the Administrator and the Secretary.

(Added P.L. 94-502, § 404.)

§ 1622. Contributions; matching fund

(a) Except as provided in subsections (c) and (d) of this section, each person electing to participate in the program shall agree to have a monthly deduction made from such person's military pay. Such monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by 5. Any such amount contributed by the participant or contributed by the Secretary pursuant to subsection (c) of this section shall be deposited in a deposit fund account entitled the "Post-Vietnam Era Veterans Education Account" (hereinafter in this chapter referred to as the "fund") to be established in the Treasury of the United

States. Contributions made by the participant shall be limited to a maximum of $2,700.

(Added P.L. 94–502, § 404; amended P.L. 96–466, § 406(a).)

(b) Except as otherwise provided in this chapter, each monthly contribution made by a participant under subsection (a) shall entitle the participant to matching funds from the Department of Defense at the rate of $2 for each $1 contributed by the participant.

(Added P.L. 94–502, § 404; amended P.L. 94–502, § 408(b).)

(c) The Secretary is authorized to contribute to the fund of any participant such contributions as the Secretary deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces, including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary or appropriate to implement the provisions of this subsection.

(Added P.L. 94–502, § 404; amended P.L. 96–466, § 406(b).)

(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a) of this title, to have been made by monthly deductions from such participant's military pay in the amount of $100 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.

(Added P.L. 96–466, § 406(c); amended by P.L. 97–306, § 210; P.L. 98–160, § 702.)

(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.

(Added P.L. 97–306, § 209.)

§ 1623. Refunds of contributions upon disenrollment

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624 of this title.

(Added P.L. 94–502, § 404; amended P.L. 98–160, § 702.)

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Administrator of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Administrator and the Secretary.

(Added P.L. 94–502, § 404.)

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(Added P.L. 94–502, § 404.)

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary under the authority of section 1622(c) of this title remaining in the fund shall be refunded to the Secretary.

(Added P.L. 94–502, § 404; amended P.L. 98–160, § 702.)

§ 1624. Death of participant

In the event of a participant's death, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

(1) The beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy.

(2) The surviving spouse of the participant.

(3) The surviving child or children of the participant, in equal shares.

(4) The surviving parent or parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to such participant's estate.

(Added P.L. 94–502, § 404; amended P.L. 96–466, § 402.)

§ 1625. Discharge or release under conditions which would bar the use of benefits

If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the Administrator of such discharge or release, whichever is later.

(Added P.L. 94–502, § 404.)

SUBCHAPTER III—ENTITLEMENT; DURATION

§ 1631. Entitlement; loan eligibility

(a)(1) Subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration, a participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).

(2) Except as provided in section 1633 of this title and subject to section 1641 of this title, the amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed their first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(Added P.L. 94-502, § 404; amended P.L. 96-466, § 404; P.L. 99-576, § 310(b)(1).)

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.

(Added P.L. 94-502, § 404; amended P.L. 96-466, § 403.)

(c) When an eligible veteran is pursuing a program of education under this chapter by correspondence, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(Added P.L. 94-502, § 404; amended P.L. 97-35, § 2003(a)(1).)

(d)(1) The amount of the monthly benefit payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

(2) For each month that an individual is paid a monthly benefit payable for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month.

(Added P.L. 100–689, § 108(b)(2).)

(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(Added P.L. 100–689, § 122.)

§ 1632. Duration; limitations

(a)(1) Except as provided in paragraphs (2) and (3) of this subsection, educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty.

(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability only if the veteran submits an application for such extension to the Administrator within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from

such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Administrator, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section, such eligible veteran is automatically disenrolled.

(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed, for the purposes of section 1322(a) of title 31, that the veteran's whereabouts is unknown and the funds shall be transferred as provided in such section.

(Added P.L. 94-502, § 404; amended P.L. 97-258, § 3(k); P.L. 98-160, § 702; P.L. 99-576, § 311.)

§ 1633. Apprenticeship or other on-job training

(a) Except as provided in subsection (b) of this section, the amount of the monthly benefit payment to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(1) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly benefit payment otherwise payable to such individual under this chapter.

(2) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly benefit payment; and

(3) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly benefit payment.

(b) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of the monthly benefit payment payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under subsection (a) of this section as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(c) For each month that an individual is paid a monthly benefit payment under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

(1) 75 percent of a month in the case of payments made in accordance with subsection (a)(1) of this section;

(2) 55 percent of a month in the case of payments made in accordance with subsection (a)(2) of this section; and

(3) 35 percent of a month in the case of payments made in accordance with subsection (a)(3) of this section.

(Added P.L. 99-576, § 310(b)(2).)

§ 1634. Tutorial Assistance.

(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of $600.

(c) An individual's period of entitlement to educational assitance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(d) Payments of benefits under this section shall be made—

(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

(2) in the case of payments to an individual for such benefits in excess of $600, from the fund from contributions made to the fund by the veteran and by the Secretary of Defense in the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter.

(Added P.L. 100-689, § 107(b).)

SUBCHAPTER IV—ADMINISTRATION

§ 1641. Requirements

(a)(1) The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1683, 1685, and 1691(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of section 1787) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty.

(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occured in the individual's field of employment), deficiency courses, or other preparatory or special education or train-

ing courses necessary to enable the individual to pursue an approved program of education.

(Added P.L. 94-502, § 404; amended P.L. 96-466, § 405; P.L. 97-35, § 2003(a)(2); P.L. 99-576, §§ 308(b), 310(c)(1), (2); P.L. 100-689, § 106(b).)

(b) The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1683, and 1691(a) (other than clause (1)) of this title and the provisions of chapter 36 of this title (with the exception of section 1787) shall be applicable with respect to individuals who are pursuing programs of education following discharge or release from active duty.

(Added P.L. 99-576, § 310(c)(3); amended P.L. 100-689, § 106(b).)

§ 1642. Reporting requirements

The Administrator and the Secretary shall submit a joint report each year to the Committees on Veterans' Affairs of the Senate and House of Representatives detailing the operations of the program provided for in this chapter during the preceding year. The report shall be submitted by January 15 of each year.

(Added P.L. 94-502, § 404; amended P.L. 97-295, § 4(37).)

§ 1643. Deposits; reports

Deductions made by the Department of Defense from the military pay of any participant shall be promptly transferred to the Administrator for deposit in the fund. The Secretary shall also submit to the Administrator a report each month showing the name, service number, and the amount of the deduction made from the military pay of each initial enrollee, any contribution made by the Secretary pursuant to section 1622(c) of this title, as well as any changes in each participant's enrollment and/or contribution. The report shall also include any additional information the Administrator and the Secretary deem necessary to administer this program. The Administrator shall maintain accounts showing contributions made to the fund by individual participants and by the Secretary as well as disbursements made from the fund in the form of benefits.

(Added P.L. 94-502, § 404; amended P.L. 98-160, § 702.)

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER I—PURPOSE; DEFINITIONS

§ 1651. Purpose

The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

(Added P.L. 89-358, § 2.)

§ 1652. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a)(1) The term "eligible veteran" means any veteran who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable; or

(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

(C) was discharged or released from active duty, any part of which was performed after January 31, 1955, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.

(2) The requirement of discharge or release, prescribed in paragraph (1)(A) or (B), shall be waived in the case of any individual who served more than one hundred and eighty days in an active-duty status for so long as such individual continues on active duty without a break therein.

(3) For purposes of paragraph (1)(A) and section 1661(a), the term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a consecutive period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

(Added P.L. 89-358, § 2; amended P.L. 91-584, § 10(1); P.L. 93-508, § 201; P.L. 94-502, §§ 211(1), 402; P.L. 96-466, § 801(a)(1).)

(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)).

(Added P.L. 89-358, § 2; amended P.L. 91-219, § 201(a); P.L. 91-584, § 10(2); P.L. 96-466, § 801(a)(1); P.L. 97-295, § 4(38).)

(c) The term "educational institution" means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults.

(Added P.L. 89-358, § 2; amended P.L. 91-219, § 201(b); P.L. 96-466, § 801(a)(1).)

(d) The term "dependent" means—

(1) a child of an eligible veteran;
(2) a dependent parent of an eligible veteran; and
(3) the spouse of an eligible veteran.

(Added P.L. 89-358, § 2; amended P.L. 94-502, § 211(1).)

(e) The term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training.

(Added P.L. 90-77, § 304(c); amended P.L. 94-502, § 210(1); P.L. 96-466, § 801(a)(1), (2).)

(f) The term "institution of higher learning" means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree. Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

(Added P.L. 94–502, § 202; amended P.L. 96–466, §§ 307(a), 801(a)(1), (2).)

(g) The term "standard college degree" means an associate or higher degree awarded by (1) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (2) an institution of higher learning that is a "candidate" for accreditation as that term is used by the regional or national accrediting agencies; or (3) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Secretary of Education under the provisions of section 1775 of this title.

(Added P.L. 94–502, § 202; amended P.L. 96–466, § 801(a).)

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1661. Eligibility; entitlement; duration

Entitlement

(a) Except as provided in subsection (c) and in the second sentence of this subsection, each eligible veteran shall be entitled to educational assistance under this chapter or chapter 36 for a period of one and one-half months (or the equivalent thereof in part-time educational assistance) for each month or fraction thereof of the veteran's service on active duty after January 31, 1955. If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy the veteran's active duty obligations, the veteran shall be entitled to educational assistance under this chapter for a period of 45 months (or the equivalent thereof in part-time educational assistance). In the case of any person serving on active duty on December 31, 1976, or a person whose eligibility is based on section 1652(a)(1)(B) of this chapter, the ending date for computing such person's entitlement shall be the date of such person's first discharge or release from active duty after December 31, 1976.

(Added P.L. 89–358, § 2; amended P.L. 90–631, § 1(b); P.L. 92–540, § 401(1); P.L. 93–508, § 202(1); P.L. 94–502, §§ 203(1), 211(2), 403(a).)

Entitlement Limitations

(b) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period.

(Added P.L. 89–358, § 2.)

(c) Except as provided in subsection (b) and in subchapter V of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.

(Added P.L. 90-631, § 1(b)(4); amended P.L. 91-219, § 204(a)(1); P.L. 93-508, § 202(2); P.L. 94-502, § 203(2); P.L. 96-466, § 601(b).)

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title, after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after November 23, 1977, or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.

(Added P.L. 89-358, § 2; amended P.L. 93-337; § 1(1); P.L. 94-502, § 211(3); P.L. 95-202, § 203(a)(1), (b)(1); P.L. 96-466, § 301; P.L. 97-295, § 4(39)(A).)

(3)(A) Subject to subparagraph (C) of this paragraph and notwithstanding the provisions of paragraph (1) of this subsection, an eligible veteran who served on active duty during the Vietnam era shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purpose of pursuing—

(i) a program of apprenticeship or other on-job training;

(ii) a course with an approved vocational objective; or

(iii) a program of secondary education, if the veteran does not have a secondary school diploma (or an equivalency certificate).

(B) Upon completion of a program or course pursued by virtue of eligibility provided by this paragraph, the Administrator shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance shall be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. Any such determination shall be made in accordance with regulations which the Administrator shall prescribe.

(ii) Educational assistance provided a veteran for pursuit of a program described in clause (iii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph shall be provided at the rate determined under section 1691(b)(2) of this title.

(D) Educational assistance may not be provided by virtue of this paragraph after December 31, 1984.

(Added P.L. 97-72, § 201(1)(a); amended P.L. 97-306, § 206(a); P.L. 98-160, § 702.)

Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

(Added P.L. 89-358, § 2; amended P.L. 93-337, § 1(2); P.L. 94-502, § 211(3).)

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before June 1, 1966, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before August 31, 1967, and who pursues a course of farm cooperative training, apprenticeship or other training on the job, the 10-year delimiting period shall run from August 31, 1967, if it is later than the date which would otherwise be applicable.

(Added P.L. 89-358, § 2; amended P.L. 90-77, § 305; P.L. 93-337, § 1(3); P.L. 97-35, § 2003(b)(1); P.L. 97-295, § 4(39)(B).)

(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's 10-year period of eligibility for educational assistance, any period during which the veteran was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Veterans' Administration medical facility.

(Added P.L. 93-337, § 1(4); amended P.L. 94-502, § 211(3).)

(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.

(Added P.L. 94-502, § 403(b).)

§ 1663. Educational and vocational counseling

The Administrator shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Administrator deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances. In any case in which the Administrator has rated the veteran as being incompetent, such counseling shall be required to be provided to the veteran prior to the selection of a program of education or training. At such intervals as the Administrator deems necessary, the Administrator shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Administrator deems practicable. The Administrator shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of such counseling services.

(Added P.L. 89-358, § 2; amended P.L. 94-502, § 211(4); P.L. 95-202, § 302(a); P.L. 99-576, § 312.)

SUBCHAPTER III—ENROLLMENT

§ 1670. Selection of program

Subject to the provisions of this chapter, each eligible veteran may select a program of education to assist the veteran in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with chapter 36 of this title) selected by the veteran, which will accept and retain the veteran as a student or trainee in any field or branch of knowledge which such institution finds the veteran qualified to undertake or pursue.

(Added P.L. 89-358, § 2; amended P.L. 94-502, § 211(5).)

§ 1671. Applications; approval

Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran's or person's selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered. The Administrator shall notify the veteran or person of the approval or disapproval of the veteran's or person's application.

(Added P.L. 89-358, § 2; amended P.L. 92-540, § 302; P.L. 94-502, § 211(6); P.L. 96-466, § 302.)

§ 1673. Disapproval of enrollment in certain courses

(a) The Administrator shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit

of the veteran's present or contemplated business or occupation; or

(4) any independent study program except one leading to a standard college degree.

(Added P.L. 89-358, § 2; amended P.L. 91-219, § 202; P.L. 93-508, § 203(1), (2); P.L. 94-502, §§ 205(1)-(3), 211(7); P.L. 96-466, § 303; P.L. 97-306, § 202(a).)

(b) The Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(Added P.L. 89-358, § 2; amended P.L. 90-77, § 302(a); P.L. 97-35, § 2003(b)(2).)

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(Added P.L. 89-358, § 2; amended P.L. 90-77, § 303(a); P.L. 96-466, § 304.)

(d)(1) Except as provided in paragraph (2) of this subsection, the Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Administrator finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title or under chapter 106 of title 10. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, 35, or 36 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

(2) Paragraph (1) of this subsection—

(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.

(Added P.L. 89-358, § 2; amended P.L. 92-540, § 401(2); P.L. 93-508, § 203(3); P.L. 94-502, § 205(4); P.L. 95-202, § 305(a)(2); P.L. 96-466, § 305; P.L. 97-295, § 4(40); P.L. 97-306, § 203(a); P.L. 98-525, § 703(b); P.L. 100-689, § 111(a)(9).)

§ 1674. Discontinuance for unsatisfactory conduct or progress

The Administrator shall discontinue the educational assistance allowance of an eligible veteran if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, the veteran's conduct or progress is unsatisfactory. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to the veteran's aptitudes, interests, and abilities.

(Added P.L. 89-358, § 2; amended P.L. 94-502, §§ 206, 211(8); P.L. 95-202, § 305(b)(1); P.L. 96-466, § 306.)

[§ 1675. Repealed, P.L. 92-540, § 401(6).]

§ 1676. Education outside the United States

An eligible veteran may not enroll in any course at an educational institution not located in a State unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning not located in a State if the Administrator determines that such enrollment is not in the best interest of the veteran or the Federal Government.

(Added P.L. 89-358, § 2; amended P.L. 94-502, § 211(9); P.L. 96-466, § 307(b).)

[§ 1677. Repealed, P.L. 97-35, § 2003(b).]

[§ 1678. Repealed, P.L. 91-219, § 204(a).]

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

§ 1681. Educational assistance allowance

General

(a) The Administrator shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(Added P.L. 89-358, § 2; amended P.L. 92-540, § 202; P.L. 94-502, §§ 210(2), 211(10).)

Institutional Training

(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence, at an educational institution shall be paid as provided in chapter 36 of this title.

(Added P.L. 89-358, § 2; amended P.L. 91-584, § 6; P.L. 92-540, § 202; P.L. 94-502, § 210(2); P.L. 97-35, § 2003(4)(A).)

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), (c), or (g) of this section, or section 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$376	$448	$510	$32
Three-quarter-time	283	336	383	24
Half-time	188	224	255	17
Cooperative	304	355	404	23

(2) A "cooperative" program, other than a "farm cooperative" program, means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(Added P.L. 89-358, § 2; amended P.L. 90-77, § 301(a), (b); P.L. 90-631, § 3(b)(1); P.L. 91-219, § 103(a); P.L. 92-540, §§ 102(2), 401(4); P.L. 93-508, § 102(2); P.L. 94-502, § 201(1); P.L. 95-202, § 102(2); P.L. 96-466, §§ 201(2), 211(2), 308; P.L. 97-35, § 2003(5); P.L. 97-306, § 204(1); P.L. 98-543, § 202(1).)

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B)

$376 per month for a full-time course, whichever is the lesser. An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

(Added P.L. 89-358, § 2; amended P.L. 90-77, § 301(c); P.L. 91-219, §§ 103(b), 204(a)(3); P.L. 92-540, §§ 102(3), 401(5); P.L. 93-508, § 102(3); P.L. 93-602, § 203(b); P.L. 94-502, § 201(2); P.L. 95-202, § 102(3); P.L. 96-466, §§ 203(3), 211(3), 312; P.L. 98-543, § 202(2).)

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the basis shown in column I:

Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$304	$355	$404	$23
Three-quarter-time	228	266	303	18
Half-time	152	178	202	12

(Added P.L. 90-77, § 303(b); amended P.L. 90-631, § 3(b)(2); P.L. 91-219, § 103(d); P.L. 92-540, §§ 102(4), 303; P.L. 93-508, § 102(4); P.L. 94-502, § 201(3); P.L. 95-202, § 102(4); P.L. 96-466, §§ 201(4), 211(4); P.L. 98-543, § 202(3); P.L. 98-160, § 702.)

(d)(1) Notwithstanding the prohibition in section 1671 of this title prohibiting enrollment of an eligible veteran in a program of education in which such veteran has "already qualified," a veteran shall be allowed up to six months of educational assistance (or the equivalent thereof in part-time assistance) for the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service.

(2) A veteran pursuing refresher training under this subsection shall be paid an educational assistance allowance based upon the rate prescribed in the table in subsection (a)(1) or in subsection (c)(2) of this section, whichever is applicable.

(3) The educational assistance allowance paid under the authority of this subsection shall be charged against the period of entitlement the veteran has earned pursuant to section 1661(a) of this title.

(Added P.L. 93-508, § 204.)

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

(Added P.L. 94-502, § 207; amended P.L. 96-466, § 309; P.L. 97-306, § 204(2).)

(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.

(Added P.L. 96-466, § 310.)

(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser. The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(Added P.L. 96-466, § 602(a); amended P.L. 97-306, § 205(b).)

[§ 1682A. Repealed, P.L. 100-689, § 124(a).]

§ 1683. Approval of courses

An eligible veteran shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course is approved in accordance with the provisions of subchapter I of chapter 36 of this title.

(Added P.L. 89-358, § 2.)

§ 1684. Apprenticeship or other on-job training; correspondence courses

Any eligible veteran may pursue a program of apprenticeship or other on-job training or a program of education exclusively by correspondence and be paid an educational assistance allowance or training assistance allowance, as applicable, under the provisions of section 1787 or 1786 of this title.

(Added P.L. 92-540, § 304.)

§ 1685. Veteran-student services

(a) Veteran-students utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as "work-study allowance"). Such work-study allowance shall be paid in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) times two hundred and fifty or $625, whichever is the higher, in return for such veteran-student's agreement to perform services, during or between periods of enrollment, aggregating two hundred and fifty hours during a semester or other applicable enrollment period, required in connection with (1) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate. An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.

(Added P.L. 92-540, § 203; amended P.L. 93-508, § 205(1), (2); P.L. 95-202, § 105; P.L. 97-295, § 4(42).)

(b) Notwithstanding any other provision of law, the Administrator shall utilize, in connection with the activities specified in subsection (a) of this section, the services of veteran-students who are pursuing full-time programs of rehabilitation, education, or training under chapter 30, 31, 32 or 34 of this title. In carrying out this section, the Administrator, wherever feasible, shall give priority to veterans with disabilities rated at 30 per centum or more for purposes of chapter 11 of this title. In the event the veteran ceases to be a full-time student before completing such agreement, the veteran may, with the approval of the Administrator, be permitted to complete such agreement.

(Added P.L. 92-540, § 203; amended P.L. 94-502, § 208; P.L. 99-576, § 308(c).)

(c) The Administrator shall determine the number of veterans whose services the Veterans' Administration can effectively utilize and the types of services that such veterans may be required to perform, on the basis of a survey, which the Administrator shall conduct annually, of each Veterans' Administration regional office in order to determine the numbers of veteran-students whose services can effectively be utilized during an enrollment period in each geographical area where Veterans' Administration activities are conducted, and shall determine which veteran-students shall be offered agreements under this section in accordance with regulations which the Administrator shall prescribe, including as criteria (1) the need of the veteran to augment the veteran's educational assistance or subsistence allowance; (2) the availability to the veteran of transportation to the place where the veteran's services are to be performed; (3) the motivation of the veteran; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

(Added P.L. 92-540, § 203; amended P.L. 93-508, § 205(3); P.L. 94-502, § 211(11).)

(d) While performing the services authorized by this section, veteran-students shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Office of Personnel Management.

(Added P.L. 92-540, § 203; amended P.L. 96-466, § 801(b).)

[§ 1686. Repealed. P.L. 100-689, § 124(a).]

[§ 1687. Repealed. P.L. 92-540, § 401(6).]

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

§ 1690. Purpose

It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue postsecondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

(Added P.L. 91-219, § 204(a)(4).)

§ 1691. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran who—

(1) has not received a secondary school diploma (or an equivalency certificate), or

(2) is not on active duty and who, in order to pursue a program of education for which the veteran would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(Added P.L. 91-219, § 204(a)(4); amended P.L. 94-502, § 211(12); P.L. 96-466, § 311(1); P.L. 97-295, § 4(43)(A).)

(b)(1) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a)(2) of this section, an educational assistance allowance as provided in sections 1681 and 1682(a) or (b) of this title.

(2) The Administrator shall pay to an eligible veteran described in subsection (a)(1) of this section who is pursuing a course or courses or program under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate) an educational assistance allowance (A) at the rate of established charges for tuition and fees required of similarly circumstanced

nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 1682(a) of this title, whichever is the lesser.

(Added P.L. 91-219, § 204(a)(4); amended P.L. 92-540, § 305; P.L. 96-466, § 311(2); P.L. 97-295, § 4(43)(B).)

(c) The provisions of section 1673(d)(1) of this title, relating to the disapproval of enrollment in certain courses, shall be applicable to the enrollment of an eligible veteran who, while serving on active duty, enrolls in one or more courses under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate).

(Added P.L. 96-466, § 311(3); amended P.L. 97-306, § 203(b).)

§ 1692. Tutorial assistance.

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Administrator may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(Added P.L. 91-219, § 204(a)(4); amended P.L. 92-540, § 306(1).)

(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(2) the tutor chosen to perform such assistance is qualified and is not the eligible veteran's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

(Added P.L. 91-219, § 204(a)(4); amended P.L. 92-540, § 306; P.L. 93-508, § 206; P.L. 94-502, § 209; P.L. 95-202, § 102(5); P.L. 96-466, §§ 201(5), 211(5); P.L. 98-543, § 202(4); P.L. 100-689, § 107(c).)

§ 1693. Effect on educational entitlement

The educational assistance allowance or cost of individualized tutorial assistance authorized by this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this title.

(Added P.L. 91-219, § 204(a)(4).)

[SUBCHAPTER VI—REPEALED]

[§§ 1695 to 1698. Repealed. P.L. 96-466, § 601(a)(1).]

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER I—DEFINITIONS

§ 1700. Purpose

The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War, and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the disability or death of such parent. The Congress further declares that the educational program extended to the surviving spouses of veterans who died of service-connected disabilities and to spouses of veterans with a service-connected total disability permanent in nature is for the purpose of assisting them in preparing to support themselves and their families at a standard of living level which the veteran, but for the veteran's death or service disability, could have expected to provide for the veteran's family.

(Added P.L. 90-631, § 2(a)(1); amended P.L. 94-502, § 310(1).)

§ 1701. Definitions

(a) For the purposes of this chapter and chapter 36 of this title—

(1) The term "eligible person" means—

(A) a child of a person who—

(i) died of a service-connected disability,

(ii) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence, or

(iii) at the time of application for benefits under this chapter is a member of the Armed Forces serving on active duty listed, pursuant to section 556 of title 37, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power.

(B) the surviving spouse of any person who died of a service-connected disability,

(C) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for benefits under this chapter is listed, pursuant to section 556 of title 37, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(D) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability, or the surviving spouse of a veteran who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.

(2) The term "child" includes individuals who are married and individuals who are above the age of twenty-three years.

(3) The term "duty with the Armed Forces" as used in section 1712 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 511(d) of title 10.

(4) The term "guardian" includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person.

(5) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(6) The term "educational institution" means any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(7) The term "special restorative training" means training furnished under subchapter V of this chapter.

(8) The term "total disability permanent in nature" means any disability rated total for the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(9) The term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the "National Apprenticeship Act" (29 U.S.C. 50 et seq.), or any agency of the Federal Government authorized to supervise such training.

(10) The term "institution of higher learning" means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree. Such term

shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

(11) *The term* "standard college degree" means an associate or higher degree awarded by (A) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (B) an institution of higher learning that is a "candidate" for accreditation as that term is used by the regional or national accrediting agencies; or (C) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Secretary of Education under the provisions of section 1775 of this title.

(Amended P.L. 86-236, § 1; P.L. 86-785, § 1; P.L. 88-361, § 1(a), (b); P.L. 89-222, § 3; P.L. 89-349, § 1(a), (b); P.L. 89-358, § 4(j)(1), (3); P.L. 90-631, § 2(b); P.L. 91-24, § 9(a); P.L. 91-584, § 1; P.L. 92-540, § 309(1), (2); P.L. 93-295, § 302; P.L. 94-502, §§ 302, 310(2); P.L. 96-466, §§ 327(a), 801(c)(1), (2); P.L. 98-160, § 702.)

(b) If an eligible person has attained the person's majority and is under no known legal disability, all references in this chapter to "parent or guardian" shall refer to the eligible person.

(Amended P.L. 94-502, § 310(3).)

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained such person's majority, or who, having attained such person's majority, is under a legal disability, shall not apply when the Administrator determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would not be administratively feasible. In such a case the Administrator, where necessary to protect the interest of the eligible person, may designate some other person (who may be the eligible person) as the person by or with respect to whom the action so required should be taken.

(Amended P.L. 94-502, § 310(4).)

(d) No eligible person may be afforded educational assistance under this chapter unless such person was discharged or released after each period such person was on duty with the Armed Forces under conditions other than dishonorable, or while such person is on duty with the Armed Forces.

(Amended P.L. 86-236, § 1; P.L. 86-785, § 3; P.L. 88-361, § 1(c); P.L. 89-349, § 1(d); P.L. 89-358, § 4(j)(3); P.L. 90-631, § 2(c); P.L. 94-502, § 310(5).)

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1710. Eligibility and entitlement generally

Each eligible person shall, subject to the provisions of this chapter, be entitled to receive educational assistance.

§ 1711. Duration of educational assistance

(a) Each eligible person shall be entitled to educational assistance under this chapter for a period not in excess of 45 months (or to the equivalent thereof in part-time training).

(Amended P.L. 94-502, § 303(1).)

(b) If any eligible person pursuing a program of education, or of special restorative training, under this chapter ceases to be an "eligible person" because—

(1) the parent or spouse from whom eligibility is derived is found no longer to have a "total disability permanent in nature", as defined in section 1701(a)(8) of this title,

(2) the parent or spouse from whom eligibility is derived based upon the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title is no longer listed in one of the categories specified therein, or

(3) the spouse, as an eligible person under section 1701(a)(1)(D) of this title, is divorced, without fault on such person's part, from the person upon whose disability such person's eligibility is based,

then such eligible person (if such person has sufficient remaining entitlement) may, nevertheless, be afforded educational assistance under this chapter until the end of the quarter or semester for which enrolled if the educational institution in which such person is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until 12 weeks have expired whichever first occurs.

(Added P.L. 88-361, § 2; amended P.L. 90-631, § 2(d); P.L. 91-24, § 9(b); P.L. 91-584, § 2; P.L. 94-502, §§ 303(2), 310(6).)

§ 1712. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 1701(a)(1)(A) of this title) is entitled under section 1711 of this title or subchapter V of this chapter may be afforded the person during the period beginning on the person's eighteenth birthday, or on the successful completion of the person's secondary schooling, whichever first occurs, and ending on the person's twenty-sixth birthday, except that—

(1) if the person is above the age of compulsory school attendance under applicable State law, and the Administrator determines that the person's best interests will be served thereby, such period may begin before the person's eighteenth birthday;

(2) if the person has a mental or physical handicap, and the Administrator determines that the person's best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under

section 1736 of this title, such period may begin before the person's eighteenth birthday, but not before the person's fourteenth birthday;

(3) if the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless paragraph (4) applies) such period shall end 8 years after, whichever date last occurs: (A) the date on which the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;

(4) if the person serves on duty with the Armed Forces as an eligible person after the person's eighteenth birthday but before the person's twenty-sixth birthday, then such period shall end 8 years after the person's first discharge or release from such duty with the Armed Forces (excluding from such 8 years all periods during which the eligible person served on active duty before August 1, 1962, pursuant to (A) a call or order thereto issued to the person as a Reserve after July 30, 1961, or (B) an extension of enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87-117); however, in no event shall such period be extended beyond the person's thirty-first birthday by reason of this paragraph;

(5) if the person becomes eligible by reason of the provisions of section 1701(a)(1)(A)(iii) of this title after the person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless clause (4) of this subsection applies) such period shall end eight years after the date on which the person becomes eligible by reason of such provisions, but in no event shall such period be extended beyond the person's thirty-first birthday by reason of this clause; and

(6)(A) if such person is enrolled in an educational institution regularly operated on the quarter or semester system and such period ends during a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if such person is enrolled in an educational institution operated on other than a quarter or semester system and such period ends after a major portion of the course is completed, such period shall be extended to the end of the course, or until 12 weeks have expired, whichever first occurs.

(Added P.L. 87-815, § 2(a); amended P.L. 88-361, § 3(a); P.L. 90-77, § 307(a); P.L. 90-631, § 2(e)(1); P.L. 91-219, § 208(1); P.L. 92-540, § 402(1); P.L. 94-502, §§ 304(1), (2), 310(7); P.L. 96-466, § 321(1), (2), (3); P.L. 97-295, § 4(44)(A).)

(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this title may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

(A) The date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.[1, 2]

(C) The date on which the Administrator determines that the spouse from whom eligibility is derived died of a service-connected disability.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct, such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in clause (B) or (D) of section 1701(a)(1) of this title) may, subject to the approval of the Administrator, be permitted to elect a date referred to in subparagraph (B) of this paragraph to commence receiving educational assistance benefits under this chapter. The date so elected shall be the beginning date of the delimiting period applicable to such person under this section.

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[1] Section 2(f) of Public Law 90-631 provides:

(f)(1) Except as provided in paragraph (2) of this subsection, in the case of any person who is an eligible person by reason of subparagraph (B) or (D) of section 1701(a)(1) of title 38, United States Code, if the date of death or the date of the determination of service-connected total disability permanent in nature of the person from whom eligibility is derived occurred before December 1, 1968, the 10-year delimiting period referred to in section 1712(b)(1) of such title shall run from such date.

(2) If the death of the person from whom such eligibility is derived occurred before December 1, 1968, and the date on which the Administrator of Veterans' Affairs determines that such person died of a service-connected disability is later than December 1, 1968, the delimiting period referred to in section 1712(b)(1) of such title shall run from the date on which the Administrator makes such determination. (Amended P.L. 97-66, § 605(b).)

[2] Section 204(a) of Public Law 92-540 provides:

"(a) Notwithstanding the provisions of section 1712(b) of title 38, United States Code, a wife or widow (1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2) entitled to receive the benefits of subsection (a) of section 1733 of this title (as added by section 313 of this Act), shall have 10 years from the date of the enactment of this Act [July 10, 1974] in which to complete such a program of education or receive such benefits." (Amended P.L. 93-337, § 3.)

(B) The date which an eligible person may elect under subparagraph (A) of this paragraph is any date during the period beginning on the date the person became an eligible person within the meaning of clause (B) or (D) of section 1701(a)(1) of this title and ending on the date determined under subparagraph (A), (B), or (C) of paragraph (1) of this subsection to be applicable to such person.

(Amended P.L. 90–631, § 2(e)(2); P.L. 91–584, § 3(1); P.L. 93–337, § 2(f); P.L. 95–202, § 203(a)(2); P.L. 96–466, § 322; P.L. 97–66, § 605(a); P.L. 97–295, § 4(44)(B); P.L. 98–160, § 702; P.L. 99–576, § 313.)

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to such person under such subsection if (1) such person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under such subsection, (2) such person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to such person under such subsection, and (3) the Administrator finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to such person under subsection (a) of this section plus a period of time equal to the period such person was required to suspend the pursuit of such person's program, or beyond such person's thirty-first birthday, whichever is earlier.

(Added P.L. 87–819, § 2; amended P.L. 94–502, § 310(8).)

(d) The term "first finds" as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature whichever is more advantageous to the eligible person.

(Added P.L. 91–219, § 208(2).)

(e) No person made eligible by section 1701(a)(1)(C) of this title may be afforded educational assistance under this chapter beyond 10 years after the date on which the spouse was listed by the Secretary concerned in one of the categories referred to in such section or December 24, 1970, whichever last occurs.

(Added P.L. 91–584, § 3(2); amended P.L. 93–337, § 2(2); P.L. 94–502, § 310(9); P.L. 97–295, § 4(44)(C).)

(f) Any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this chapter) shall be entitled to an additional period of eligibility for an education loan under subchapter III of chapter 36 of this title beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2) of this title.

(Added P.L. 95–202, § 203(b)(2).)

(g) Any entitlement used by any eligible person as a result of eligibility under the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title shall be deducted from any entitlement to which such person may subsequently become entitled under the provisions of this chapter.

(Added P.L. 91-584, § 3(2); amended P.L. 94-502, § 310(9); P.L. 95-202, § 203(b)(2).)

§ 1713. Application

The parent or guardian of a person or the eligible person if such person has attained legal majority for whom educational assistance is sought under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. If the Administrator finds that the person on whose behalf the application is submitted is an eligible person, the Administrator shall approve the application provisionally. The Administrator shall notify the parent or guardian or eligible person (if the person has attained legal majority) of the provisional approval or of the disapproval of the application.

(Amended P.L. 94-502, § 305.)

§ 1714. Processing of applications

(a) Further processing of an application for educational assistance and the award of such assistance shall be pursuant to the requirements of subchapters III and IV of this chapter unless the parent or guardian requests special restorative training for the eligible person, in which case the application will be processed under subchapter V of this chapter.

(b) If the request for special restorative training is approved, educational assistance will be afforded pursuant to the terms of subchapter V of this chapter. If the request for special restorative training is disapproved, or if approved the restorative training is completed or discontinued, any educational assistance subsequently afforded will be in accordance with subchapters III and IV of this chapter.

SUBCHAPTER III—PROGRAM OF EDUCATION

§ 1720. Educational and vocational counseling

The Administrator may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.

(Amended P.L. 99-576, § 314(a).)

§ 1721. Approval of application

The Administrator shall approve an application if the Administrator finds that—

(1) the proposed program of education constitutes a "program of education" as that term is defined in this chapter;

(2) the eligible person is not already qualified, by reason of previous education or training, for the educational, profession-

al, or vocational objective for which the program of education is offered;

(3) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

(4) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provisions of this chapter or chapter 36 of this title.

(Amended P.L. 94-502, § 310(11); P.L. 96-466, § 324; P.L. 99-576, § 314(b)(1), (2).)

[§ 1722. Repealed. P.L. 92-540, § 402(2).]

§ 1723. Disapproval of enrollment in certain courses

(a) The Administrator shall not approve the enrollment of an eligible person in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of the person's present or contemplated business or occupation; or

(4) any independent study program except one leading to a standard college degree.

(Amended P.L. 91-219, § 209; P.L. 93-508, § 207(1), (2); P.L. 94-502, §§ 306, 310(12); P.L. 96-466, § 325; P.L. 97-306, § 202(b).)

(b) The Administrator shall not approve the enrollment of an eligible person in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(Amended P.L. 86-785, § 4; P.L. 87-546; P.L. 92-540, § 311(1); P.L. 93-508, § 207(3); P.L. 94-502, § 310(13); P.L. 96-466, § 326.)

(d) The Administrator shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of such person's regular secondary school education (except as provided in section 1733 of this title), but this subsection shall not prevent the enrollment of an eligible person in a course not leading to a standard college degree if the Administrator finds that such person has ended such person's secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

(Amended P.L. 92-540, § 311(2); P.L. 93-508, § 207(4); P.L. 94-502, § 310(14).)

(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator, in the Administrator's discretion, may deny or discontinue educational assistance under this chapter in the case of any eligible person in such an institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Federal Government.

(Added P.L. 96-466, § 327(b).)

§ 1724. Discontinuance for unsatisfactory progress

The Administrator shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution such person is attending, the person's conduct or progress is unsatisfactory. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to the person's aptitudes, interests, and abilities.

(Amended P.L. 94-502, §§ 307, 310(15); P.L. 95-202, § 305(b)(1); P.L. 96-466, § 328.)

[§ 1725. Repealed. P.L. 92-540, § 402(2).]

[§ 1726. Repealed. P.L. 89-358, § 3(a).]

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

§ 1731. Educational assistance allowance

(a) The Administrator shall, in accordance with the provisions of chapter 36 of this title, pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(Amended P.L. 92-540, § 312(1); P.L. 94-502, § 309(c).)

(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.

(Added P.L. 89-358, § 4(1); amended P.L. 94-502, § 310(16); P.L. 96-466, § 329.)

§ 1732. Computation of educational assistance allowance

(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents.

(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be computed at the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran.

(Amended P.L. 89-222, § 1(a); P.L. 91-219, § 104(a); P.L. 92-540, § 103(1), (2); P.L. 93-508, § 103 (1), (2).)

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of $304 per month.

(Amended P.L. 89-222, § 1(b); P.L. 91-219, § 104(b); P.L. 92-540, § 103(3); P.L. 93-508; § 103(3); P.L. 93-602, § 204(a); P.L. 94-502, § 301(1); P.L. 95-202, § 103(1); P.L. 96-466, §§ 202(1), 212(1); P.L. 98-543, § 203(1).)

(c)(1) An eligible person who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within forty-four weeks of any period of twelve consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of seven clock hours per week), or

(C) a half-time basis (a minimum of five clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in paragraph (2) of this subsection, if such eligible person is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the person is enrolled.

(2) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a farm cooperative program under this chapter shall be computed at the rate prescribed in section 1682(c)(2) of this title for full-time, three-quarter-time, or half-

time pursuit, as appropriate, of a farm cooperative program by an eligible veteran with no dependents.

(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate prescribed in section 1682(e) of this title.

(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under section 1682(e) of this title for an independent study program.

(Added P.L. 93-508, § 208; amended P.L. 94-502, § 308; P.L. 96-466, § 330.)

(d) If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person under this section shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar.

(Amended P.L. 91-219, § 210.)

(e) In the case of an eligible person who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony, the educational assistance allowance shall be paid in the same manner prescribed in section 1682(g) of this title for incarcerated veterans.

(Added P.L. 96-466, § 602(b).)

§ 1733. Special assistance for the educationally disadvantaged

(a)(1) Any eligible person shall be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.

(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement.

(Amended P.L. 91-219, § 206(b); P.L. 91-584, § 12; P.L. 92-540, § 313; P.L. 94-502, § 310(17); P.L. 98-223, § 203(b); P.L. 100-689, § 106(c).)

(b) Any eligible person shall, without charge to any entitlement such person may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1692 of this title.

(Amended P.L. 92-540, § 313; P.L. 94-502, § 310(18).)

§ 1734. Apprenticeship or other on-job training; correspondence courses

(a) Any eligible person shall be entitled to pursue, in a State, a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.

(Amended P.L. 89-358, § 4(m); P.L. 92-540, § 313.)

(b) Any eligible spouse or surviving spouse shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section 1786 of this title.

(Amended P.L. 89-358, § 4(m); P.L. 92-540, § 313; P.L. 94-502, § 310(19).)

§ 1735. Approval of courses

An eligible person shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course (1) is approved in accordance with the provisions of subchapter I of chapter 36 of this title, or (2) is approved for the enrollment of the particular individual under the provisions of section 1736 of this title.

(Amended P.L. 88-126, § 2; P.L. 89-358, § 4(n); P.L. 92-540, § 402(4).)

§ 1736. Specialized vocational training courses

The Administrator may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if the Administrator finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap.

(Amended P.L. 88-126, § 4; P.L. 94-502, § 310(20).)

[§ 1737. Repealed, P.L. 100-689, § 124(a).]

[§ 1738. Repealed, P.L. 100-689, § 124(a).]

SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

§ 1740. Purpose

The purpose of special restorative training is to overcome, or lessen, the effects of a manifest physical or mental disability which would handicap an eligible person (as defined in section 1701(a)(1)(A) of this title) in the pursuit of a program of education.

(Amended P.L. 96-466, § 331.)

§ 1741. Entitlement to special restorative training

(a) The Administrator at the request of the parent or guardian of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the Administrator, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) The total period of educational assistance under this subchapter and other subchapters of this chapter may not exceed the amount of entitlement as established in section 1711 of this title, except that the Administrator may extend such period in the case of any person if the Administrator finds that additional assistance is necessary to accomplish the purpose of special restorative training as stated in subsection (a) of this section.

(Amended P.L. 88-361, § 6; P.L. 94-502, § 310(21).)

§ 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of $376 per month. If the charges for tuition and fees applicable to any such course are more than $119 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $119 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $12.58 that the special training allowance paid exceeds the basic monthly allowance.

(Amended P.L. 89-222, § 2; P.L. 91-219, § 104(c); P.L. 92-540, § 103(4); P.L. 93-508, § 103(4); P.L. 93-602, § 204(b); P.L. 94-502, § 301(2); P.L. 95-202, § 103(2); P.L. 96-466, §§ 202(2), 212(2); P.L. 98-543, § 203(2).)

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

§ 1743. Special administrative provisions

(a) In carrying out the Administrator's responsibilities under this chapter the Administrator may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the Administrator finds that a customary tuition charge is not applicable, the Administrator may agree on the fair and reasonable amounts which may be charged the parent or guardian for the training provided to an eligible person.

(Amended P.L. 94-502, § 310(22).)

(b) The Administrator shall make such rules and regulations as the Administrator may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

(Amended P.L. 94-502, § 310(22).)

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 1761. Authority and duties of Administrator

(a) The Administrator may provide the educational and vocational counseling authorized under section 1720 of this title, and may provide additional counseling if the Administrator deems it to be necessary to accomplish the purposes of this chapter.

(Amended P.L. 89-358, § 3(a)(1); P.L. 94-502, § 310(23); P.L. 96-466, § 323(b).)

(b) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the Administrator.

(Amended P.L. 89-358, § 3(a)(1).)

§ 1762. Nonduplication of benefits

The commencement of a program of education or special restorative training under this chapter shall be a bar (1) to subsequent payments of compensation, dependency and indemnity compensation, or pension based on the death of a parent to an eligible person over the age of eighteen by reason of pursuing a course in an educational institution, or (2) to increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person whether eligibility is based upon the death or upon the total permanent disability of the parent.

(Amended P.L. 88-361, § 4.)

§ 1763. Notification of eligibility

The Administrator shall notify the parent or guardian of each eligible person defined in section 1701(a)(1)(A) of this title of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains such person's thirteenth birthday or as soon thereafter as feasible.

(Added P.L. 91-219, § 207(a); amended P.L. 94-502, § 310(24); P.L. 97-295, § 4(46).)

SUBCHAPTER VII—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS

[§ 1764. Repealed. Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20]

§ 1765. Children of certain Philippine veterans

BASIC ELIGIBILITY

(a) The term "eligible person" as used in section 1701(a)(1) of this title includes the children of those Commonwealth Army veterans and "New" Philippine Scouts who meet the requirements of service-connected disability or death, based on service as defined in section 1766 of this title.

(Added P.L. 89-613, § 1; amended P.L. 97-295, § 4(47).)

ADMINISTRATIVE PROVISIONS

(b) The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and "New" Philippine Scouts, except that—

(1) educational assistance allowances authorized by section 1732 of this title and the special training allowance authorized by section 1742 of this title shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar, and

(2) any reference to a State approving agency shall be deemed to refer to the Administrator.

(Added P.L. 89-613, § 1.)

DELIMITING DATES

(c) In the case of any individual who is an eligible person solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on September 30, 1966, the period referred to in section 1712 of this title shall not end until the expiration of the five-year period which begins on September 30, 1966.

(Added P.L. 89-613, § 1; amended P.L. 91-24, § 9(c).)

§ 1766. Definitions

(a) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(Added P.L. 89-613, § 1.)

(b) The term " 'New' Philippine Scouts" means Philippine Scouts who served under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(Added P.L. 89-613, § 1.)

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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SUBCHAPTER I—STATE APPROVING AGENCIES

§ 1770. Scope of approval

(a) A course approved under and for the purposes of this chapter shall be deemed approved for the purposes of chapters 34 and 35 of this title.

(Added P.L. 89-358, § 3(a)(5).)

(b) Any course approved under chapter 33 of this title, prior to February 1, 1965, under subchapter VII of chapter 35 of this title, prior to March 3, 1966, and not disapproved under section 1683, section 1656 (as in effect prior to February 1, 1965), or section 1779 of this title, shall be deemed approved for the purposes of this chapter.

(Added P.L. 89-358, § 3(a)(5); amended P.L. 92-540, § 403(1); P.L. 97-295, § 4(49).)

§ 1771. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the "State approving agency" for such State for the purposes of this chapter and chapters 34 and 35 of this title.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(6); P.L. 92-540, § 403(2); P.L. 94-502, § 513(a)(1).)

(b)(1) If any State fails or declines to create or designate a State approving agency, or fails to enter into an agreement under section 1774(a), the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Administrator.

(2) In the case of courses subject to approval by the Administrator under section 1772 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Administrator.

(Added P.L. 88-126, § 1; amended P.L. 100-323, § 13(b).)

§ 1772. Approval of courses

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 of this title while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 of this title by the State approving agency for the State where such educational institution is located, or by the Administrator, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 1736 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Administrator with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Administrator as it and the Administrator may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35 of this title. Each State approving agency shall notify the Administrator of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(7), (8); P.L. 92-540, § 403(3), (4).)

(b) The Administrator shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The

Administrator may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(7); P.L. 92-540, § 403(3); P.L. 97-295, § 4(50)(A).)

(c) In the case of programs of apprenticeship where—

(1) the standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the "National Apprenticeship Act") (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State, and

(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Administrator shall act as a "State approving agency" as such term is used in section 1787(a)(1) of this title and shall be responsible for the approval of all such programs.

(Added P.L. 91-219, § 211; amended P.L. 92-540, § 403(5); P.L. 97-295, § 4(50)(B).)

(d) Pursuant to regulations prescribed by the Administrator in consultation with the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 2003A of this title to promote the development of such programs.

(Added P.L. 96-466, § 502.)

§ 1773. Cooperation

(a) The Administrator and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Administrator and each State approving agency under the educational programs established under this chapter and chapters 34 and 35 of this title. To assure that such programs are effectively and efficiently administered, the cooperation of the Administrator and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35 of this title.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(7), (11); P.L. 92-540, § 403(6); P.L. 97-295, § 4(51).)

(b) The Administrator will furnish the State approving agencies with copies of such Veterans' Administration informational material as may aid them in carrying out chapters 34 and 35 of this title.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(7), (11); P.L. 97-295, § 4(51).)

§ 1774. Reimbursement of expenses

(a)(1) Subject to paragraphs (2) through (4) of this subsection, the Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section in (A) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under this chapter and chapters 30 through 35 of this title and chapters 106 and 107 of title 10, and in the supervision of such educational institutions, and (B) furnishing, at the request of the Administrator, any other services in connection with such chapters. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters. The Administrator may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters, and has had the prior approval of the Administrator.

(2)(A) The Administrator shall, effective at the beginning of fiscal year 1988, make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section and for the allowance for administrative expenses described in subsection (b).

(B) The Administrator shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A) of this subsection.

(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b).

(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Administrator on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the Administrator.

(B) The Administrator shall transmit a report to the Congress on a quarterly basis which summarizes—

(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) of this paragraph with respect to the quarter for which the report is made; and

(ii) the amounts of the payments made by the Administrator for such quarter with respect to such certifications and with respect to administrative expenses.

(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the Administrator shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(7), (11); P.L. 90-631, § 4(2); P.L. 92-540, § 403(7); P.L. 94-502, § 503(1); P.L. 97-295, § 4(51); P.L. 100-323, § 13(a),(b).)

(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000 plus $1,155 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,548.
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000 plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000 plus $872 for each additional $5,000 or fraction thereof.

(Added P.L. 90-631, § 4(3); amended P.L. 92-540, § 411; P.L. 93-508, § 210(1); P.L. 94-502, § 503(2); P.L. 95-202, § 303(1); P.L. 96-466, §§ 203(1), 213(1).)

(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and periodically, but not less often than annually, thereafter, as determined by the Administrator, on the activities in the preceding twelve months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Administrator shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 of this title and in supervising such institutions.

(Added P.L. 95-202, § 303(2).)

§ 1774A. Evaluations of agency performance; qualifications and performance of agency personnel

(a) The Administrator shall—

(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Administrator in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

(2) take into account the results of annual evaluations carried out under clause (1) when negotiating the terms and conditions of a contract or agreement under section 1774 of this title;

(3) supervise functionally the provision of course-approval services by State approving agencies under this subchapter;

(4) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

(5) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement entered into under section 1774(a).

(b)(1) Each State approving agency carrying out a contract or agreement with the Administrator under section 1774(a) after the 18-month period beginning on the date of the enactment of this section shall—

(A) apply qualification and performance standards based on the standards developed under subsection (a)(5) of this section; and

(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 1774(a).

(2) In developing and applying standards described in subsection (a)(5) of this section, the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

(3) The Administrator shall provide assistance in developing such standards to a State approving agency that requests it.

(Added P.L. 100-323, § 13(b).)

§ 1775. Approval of accredited courses

(a) A State approving agency may approve the courses offered by an educational institution when—

(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(2) such courses are conducted under sections 11-28 of title 20; or

(3) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

For the purposes of this chapter the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which the Secretary determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 1776(b)(6) and (7) of this title.

(Added P.L. 88-126, § 1; amended P.L. 94-502, §§ 504(1), 513(a)(2); P.L. 96-466, § 801(d).)

(b) As a condition to approval under this section, the State approving agency must find that adequate records are kept by the educational institution to show the progress of each eligible person or veteran and must include as a minimum (except for attendance) the requirements set forth in section 1776(c)(7) of this title. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the eligible person or veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person or veteran and the Administrator so notified.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(8); P.L. 94-502, § 504(2).)

§ 1776. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 1775 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(Added P.L. 88-126, § 1; amended P.L. 89-358, § 3(a)(9).)

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished by the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(Added P.L. 88-126, § 1.)

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indi-

cates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person and the Administrator so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

(Added P.L. 88-126, § 1.)

(d) The Administrator may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree,

(2) is operated by an agency of a State or of a unit of local government,

(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction, and

(4) is a candidate for accreditation by a regional accrediting association,

if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

(Added P.L. 97-66, § 606.)

§ 1777. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

(Added P.L. 90-77, § 304(d); amended P.L. 91-219, § 212.)

(b) The training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

(1) the wages to be paid the eligible veteran or person (A) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which the veteran or person is to be trained, and (B) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran or person is being trained; and

(2) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to the veteran or person at the end of the training period.

(Added P.L. 90-77, § 304(d); amended P.L. 92-540, § 314; P.L. 94-502, § 513(a)(3).)

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) The training content of the course is adequate to qualify the eligible veteran or person for appointment to the job for which the veteran or person is to be trained.

(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran or person with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran or person will need to learn in order to become competent on the job for which the veteran or person is being trained.

(4) Provision is made for related instruction for the individual eligible veteran or person who may need it.

(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(6) Adequate records are kept to show the progress made by each eligible veteran or person toward such veteran's or person's job objective.

(7) No course of training will be considered bona fide if given to an eligible veteran or person who is already qualified by training and experience for the job.

(8) A signed copy of the training agreement for each eligible veteran or person, including the training program and wage scale as approved by the State approving agency, is provided to the veteran or person and to the Administrator and the State approving agency by the employer.

(9) That the course meets such other criteria as may be established by the State approving agency.

(Added P.L. 90–77, § 304(d); amended P.L. 92–540, § 314; P.L. 94–502, § 513(a)(3).)

§ 1778. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Administrator. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) date of letter and effective date of approval of courses;

(2) proper address and name of each educational institution;

(3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;

(4) name of each course approved;

(5) where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;

(6) signature of responsible official of State approving agency; and

(7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

(Added P.L. 88-126, § 1.)

§ 1779. Disapproval of courses

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(Added P.L. 88-126, § 1.)

(b) Each State approving agency shall notify the Administrator of each course which it has disapproved under this section. The Administrator shall notify the State approving agency of the Administrator's disapproval of any educational institution under chapter 31 of this title.

(Added P.L. 88-126, § 1; amended P.L. 94-502, § 513(a)(4).)

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1508, 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree, or a course that meets the requirements of section 1788(a)(7) of this title, for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding courses that meet the requirements of section 1788(a)(7) of this title and programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the

Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances, except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof; or

(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution.

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2) of this subsection;

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2) of this subsection; or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2) of this subsection.

(Added P.L. 92–540, § 201; amended P.L. 93–208; P.L. 93–508, § 209; P.L. 94–502, §§ 505, 506, 513(a)(5); P.L. 96–466, §§ 341(a), 342, 602(c); P.L. 97–35, § 2003(c); P.L. 97–295, § 4(52)(A)–(C); P.L. 97–306, § 205(c); P.L. 99–576, § 315(a)(1); P.L. 100–689, § 121(a).)

Correspondence Training Certifications

(b) No educational assistance allowance shall be paid to an eligible veteran or spouse or surviving spouse enrolled in and pursuing a program of education exclusively by correspondence until the Administrator shall have received—

(1) from the eligible veteran or spouse or surviving spouse a certificate as to the number of lessons actually completed by the veteran or spouse or surviving spouse and serviced by the educational institution; and

(2) from the training establishment a certification or an endorsement on the veteran's or spouse's or surviving spouse's certificate, as to the number of lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(Added P.L. 92-540, § 201; amended P.L. 94-502, § 513(a)(5).)

Apprenticeship and Other On-Job Training

(c) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the Administrator shall have received—

(1) from such veteran or person a certification as to such veteran's or person's actual attendance during such period; and

(2) from the training establishment a certification, or an endorsement on the veteran's or person's certificate, that such veteran or person was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

(Added P.L. 92-540, § 201; amended P.L. 94-502, § 513(a)(6).)

Advance Payment of Initial Educational Assistance or Subsistence Allowance

(d)(1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a person on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance

payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (4)(B) and (C) and (5) of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

(3) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

(4) The advance payment authorized by paragraph (2) of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon such veteran's or person's registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

(5) Upon delivery of the advance payment pursuant to paragraph (4) of this subsection, the institution shall submit to the Administrator a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Administrator forthwith.

(Added P.L. 92-540, § 201; amended P.L. 94-502, § 513(a)(6); P.L. 96-466, § 601(c); P.L. 99-576, § 701(59).)

Recovery of Erroneous Payments

(e) If an eligible veteran or eligible person, fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsection (d)(2) of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 3102 of this title, from any benefit otherwise due such veteran or person under any law administered by the Veterans' Administration or may be recovered in the same manner as any other debt due the United States.

(Added P.L. 92-540, § 201; amended P.L. 94-502, § 513(a)(11); P.L. 96-466, § 601(d)(1).)

Payments for Less Than Half-Time Training

(f) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis shall be made in an amount computed for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such veteran or person has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided in section 1682(b) or 1732(a)(2) of this title, as applicable.

(Added P.L. 92-540, § 201; P.L. 96-466, § 601(d)(2); amended P.L. 99-576, § 316.)

Determination of Enrollment, Pursuit, and Attendance

(g) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the Administrator may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.

(Added P.L. 92-540, § 201; amended P.L. 94-502, § 513(a)(10), (12); P.L. 96-466, § 341(b).)

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 1781. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 30, 34, 35, or 36 of this title or 106 or 107 of title 10, or subsistence allowance granted under chapter 31 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under chapter 41 of title 5 and whose full salary is being paid to such person while so training.

(Added P.L. 91-219, § 213(1); amended P.L. 92-540, § 403(8); P.L. 94-502, § 513(a)(13); P.L. 96-466, §§ 102, 801(e); P.L. 97-295, § 4(53); P.L. 98-223, § 203(c)(1); P.L. 98-525, § 703(c).)

(b) No person may receive benefits concurrently under two or more of the provisions of law listed below:

(1) Chapters 30, 31, 32, 34, 35, and 36 of this title.

(2) Chapters 106 and 107 of title 10.

(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note.)

(4) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note.)

(Added P.L. 98-223, § 203(c)(1); amended P.L. 98-525, § 703(c); P.L. 99-576, §§ 317; 321(9).)

§ 1782. Control by agencies of the United States

Except as provided in section 1774A of this title, no department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of education under this chapter or chapter 34 or 35 of this title in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(9); P.L. 100-323, § 13(b).)

§ 1783. Conflicting interests

(a) Every officer or employee of the Veterans' Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title shall be immediately dismissed from such officer's or employee's office or employment.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(10); P.L. 94-502, § 513(a)(14); P.L. 97-295, § 4(54).)

(b) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title, the Administrator shall discontinue making payments under section 1774 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such payments shall not be resumed while such person is an officer or employee of the State approving agency, or State department of veterans' affairs or State department of education.

(Added P.L. 89–358, § 3(b); amended P.L. 92–540, § 403(10); P.L. 94–502, § 513(a)(15).)

(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Veterans' Administration or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

(Added P.L. 89–358, § 3(b).)

(d) The Administrator may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration or of a State approving agency, if the Administrator finds that no detriment will result to the United States or to eligible persons or veterans by reasons of such interest or connection of such officer or employee.

(Added P.L. 89–358, § 3(b); P.L. 94–502, § 513(a)(16).)

§ 1784. Reports by veterans, eligible persons, and institutions; reporting fee

(a)(1) Except as provided in paragraph (2) of this subsection, the veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 34, 35, or 36 of this title shall, without delay, report to the Administrator, in the form prescribed by the Administrator, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Administrator may approve a delay by the educational institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester if the educational institution requests the delay and the Administrator determines that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of such program.

(B) An educational institution which, pursuant to subparagraph (A) of this paragraph, is delaying the reporting of the enrollment or reenrollment of a veteran shall provide the veteran with notice of the delay at the time that the veteran enrolls or reenrolls.

(3)(A) Subject to subparagraph (B) of this paragraph, an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a veteran who is not on active duty, or of an eligible person, in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

(B) Subparagraph (A) of this paragraph shall not apply with respect to any term, quarter, or semester for which the veteran or eligible person is enrolled on a less than half-time basis and shall not be construed as restricting the Administrator from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 315(1); P.L. 94-502, §§ 507, 513(a)(17); P.L. 96-466, § 343(a)(1); P.L. 99-576, §§ 318, 319.)

(b) The Administrator, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Administrator.

(Added P.L. 96-466, § 343(a)(2).)

(c) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, or $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(4) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 percent from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

(Added P.L. 90-77, § 308(a); amended P.L. 92-540, § 315; P.L. 93-508, § 210(2); P.L. 94-502, §§ 508, 513(a)(17); P.L. 95-202, § 304(a)(1); P.L. 96-466, §§ 343(a)(2), 601(e); P.L. 97-295, § 4(55).)

§ 1785. Overpayments to eligible persons or veterans

(a) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person to the United States.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(11); P.L. 95-202, § 304(a)(2); P.L. 96-466, § 344.)

(b) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) the willful or negligent false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(11); P.L. 95-202, § 304(a)(2); P.L. 96-466, § 344.)

(c) Any overpayment referred to in subsection (a) or (b) of this section may be recovered, except as otherwise provided in the last sentence of section 1784(c) of this title, in the same manner as any other debt due the United States.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(11); P.L. 95-202, § 304(a)(2); P.L. 96-466, § 344.)

(d) Any overpayment referred to in subsection (a) or (b) of this section may be waived as to a veteran or eligible person as provided in section 3102 of this title. Waiver of any such overpayment as to a veteran or eligible person shall in no way release any educational institution from liability under subsection (b) of this section.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(11); P.L. 95-202, § 304(a)(2); P.L. 96-466, § 344.)

(e)(1) Any amount collected from a veteran or eligible person pursuant to this section shall be reimbursed to the educational institution which is liable pursuant to subsection (b) of this section to the extent that collection was made from the educational institution.

(2) Nothing in this section or any other provision of this title shall be construed as (A) precluding the imposition of any civil or criminal liability under this title or any other law, or (B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 403(11); P.L. 95-202, § 304(a)(2); P.L. 96-466, § 344.)

§ 1786. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 1652(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $376 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 316(1); P.L. 93-508, § 104(1); P.L. 93-602, § 205(a); P.L. 94-502, §§ 501(1), 513(a)(18); P.L. 95-202, § 104(1); P.L. 96-466, §§ 203(2), 213(2), 604; P.L. 97-35, § 2004(a); P.L. 97-174, § 5(a); P.L. 98-543, § 204(1).)

(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or spouse or surviving spouse and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Administrator to the veteran or spouse or surviving spouse. A copy of the enrollment agreement shall be furnished to each such veteran or spouse or surviving spouse at the time such veteran or spouse or surviving spouse signs such agreement. No such agreement shall be effective unless such veteran or spouse or surviving spouse shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or spouse or surviving spouse at any time notifies the institution of such veteran's or spouse's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

(Added P.L. 92–540, § 316(1); amended P.L. 94–502, § 513(a)(18).)

(c) In the event a veteran or spouse or surviving spouse elects to terminate such veteran's or spouse's enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 1776 of this title) may charge the veteran or spouse or surviving spouse a registration or similar fee not in excess of 10 percent of the tuition for the course, or $50, whichever is less. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of one or more but less than 25 percent of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 percent of the tuition for the course. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of 25 percent but less than 50 percent of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 percent of the course tuition. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Added P.L. 92–540, § 316(1); amended P.L. 94–502, § 513(a)(18); P.L. 97–295, § 4(56).)

§ 1787. Apprenticeship or other on-job training

(a) An eligible veteran (as defined in section 1652(a)(1) of this title) or an eligible person (as defined in section 1701(a) of this title) shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the "National Apprenticeship Act") (29 U.S.C. 50a), or

(2) program of other on-job training approved under provisions of section 1777 of this title,

subject to the conditions and limitations of chapters 34 and 35 of this title with respect to educational assistance.

(Added P.L. 89–358, § 3(b); amended P.L. 92–540, § 316(1); P.L. 97–295, § 4(57).)

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$274	$307	$336	$14
Second 6 months	205	239	267	14
Third 6 months	136	171	198	14

Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
Fourth and any succeeding 6-month periods ..	68	101	131	14

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course.

(3) In any month in which an eligible veteran or person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training assistance allowance set forth in subsection (b)(1) or (2) of this section, as applicable, shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

(Added P.L. 92–540, § 316(1); amended P.L. 93–508, § 104(2), (3); P.L. 93–602, § 205(b); P.L. 94–502, § 501(2); P.L. 95–104(2); P.L. 96–466, §§ 203(3), 213(3); P.L. 98–543, § 204(2).)

(c) For the purpose of this chapter, the terms "program of apprenticeship" and "program of other on-job training" shall have the same meaning as "program of education"; and the term "training assistance allowance" shall have the same meaning as "educational assistance allowance" as set forth in chapters 34 and 35 of this title.

(Added P.L. 92–540, § 316(1).)

§ 1788. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775(a)(1) of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 1775(a)(1) of this

title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 1691(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) of this subsection as determined by the educational institution; and

(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pursuant to section 1775 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

(Added P.L. 92–540, § 316(2); amended P.L. 93–508, § 211; P.L. 94–502, § 509(a); P.L. 95–202, § 304(3); P.L. 96–466, §§ 345(a), 601(f); P.L. 97–295, § 4(58); P.L. 99–576, § 315(a)(2); P.L. 100–322, § 321(a).)

(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 34 or 35 of this title.

(Added P.L. 92–540, § 316(2).)

(c) For the purposes of subsection (a) of this section, the term "in residence on a standard quarter- or semester-hour basis" means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term "standard class session" means one hour (or fifty-minute period) of academic instruction, two hours (or two 50-minute periods) of laboratory instruction, or three hours of workshop training.

(Added P.L. 96–466, § 345(b); amended P.L. 99–576, § 315(a)(2); P.L. 100–322, § 321(a).)

(d) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including (A) payment of tuition and fees, (B) the awarding of academic credit for the purpose of meeting graduation requirements, and (C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4) of this section;

(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

(3) such course would qualify as a full-time course under subsection (a)(4) of this section, except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

(4) the course requires—

(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4) of this section.

(Added P.L. 96-466, § 345(b).)

(e) For the purpose of determining whether a course—

(1) which is offered by an institution of higher learning, and

(2) for which such institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree

will, during the semester (or quarter or other applicable portion of the academic year) when such unit course or subject is being pursued, be considered full time under clause (1) or (2) of subsection (a) of this section, each of the numbers of hours specified in such clause shall be deemed to be reduced, during such semester (or other portion of the academic year), by the percentage described in the following sentence and rounded as the Administrator may prescribe. Such percentage is the percentage that the number of semester hours (or the equivalent thereof) represented by such unit course or subject is of the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a fulltime institutional undergraduate course at such institution.

(Added P.L. 99-576, § 315(b).)

§ 1789. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

(Added P.L. 92-540, § 316(2).)

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree;

(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education under the provisions of subchapter V of chapter 34 of this title (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years; or

(6) any course offered by an educational institution under a contract with the Department of Defense that (A) is given on, or immediately adjacent to, a military base; (B) is available only to active duty military personnel and/or their dependents and (C) has been approved by the State approving agency of the State in which the base is located.

The Administrator may waive the requirements of clause (6) of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 509(b)(1), (2), (3); P.L. 95-202, § 305(a)(1)(A); P.L. 96-466, § 601(g).)

(c) Notwithstanding the provisions of subsection (b) (1), (2), (3), or (4) of this section, the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

(1) a public or other tax-supported institution where the branch or extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

(2) a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution.

The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(Added P.L. 94-502, § 509(b)(4); amended P.L. 95-202, § 305(a)(1)(B).)

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) If the Administrator finds that an educational institution has—

(1) charged or received from any eligible veteran or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

(2) instituted, after October 24, 1972, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Administrator finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance and prepayment allowances under such section,

the Administrator may disapprove such educational institution for the enrollment of any eligible veteran or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35 of this title.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(19); P.L. 97-295, § 4(59)(A).)

Discontinuance of Allowances

(b)(1) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35 of this title or fails to meet any of the requirements of such chapters.

(2) Except as provided in paragraph (3) of this subsection, any action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

(I) the Administrator provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Administrator determines is reasonable and appropriate) take corrective action; and

(III) the Administrator, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Administrator's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Administrator has determined is reasonable and appropriate), and of the date on which the Administrator intends to take action under such subparagraph.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(19); P.L. 95-202, § 306; P.L. 96-466, § 801(f); P.L. 97-295, § 4(59)(B); P.L. 97-306, § 207(1), (2).)

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 510.)

False or Misleading Statements

(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Administrator shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(19).)

§ 1791. Change of program

(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran and eligible person may make not more than one change of program of education, but an eligible veteran or eligible person whose program has been interrupted or discontinued due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application shall not be entitled to any such change.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(20).)

(b) The Administrator may approve one additional change (or an initial change in the case of a veteran or person not eligible to make a change under subsection (a)) in program if the Administrator finds that—

(1) the program of education which the eligible veteran or eligible person proposes to pursue is suitable to the veteran's or person's aptitudes, interests, and abilities; and

(2) in any instance where the eligible veteran or eligible person has interrupted, or failed to progress in, the veteran's or person's program due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application, there exists a reasonable likelihood with respect to the program which the eligible veteran or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(20).)

(c) The Administrator may also approve additional changes in program if the Administrator finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

(Added P.L. 92-540, § 316(2); amended P.L. 94-502, § 513(a)(20).)

(d) As used in this section the term "change of program of education" shall not be deemed to include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.

(Added P.L. 92-540, § 316(2).)

§ 1792. Advisory committee

(a) There shall be a Veterans' Advisory Committee on Education formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 30, 32, 34, or 35 of this title. The committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 316(3); P.L. 96-466, § 346; P.L. 99-576, § 304.)

(b) The Administrator shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 30, 32, 34, and 35 of this title. The committee may make such reports and recommendations as it considers desirable to the Administrator and the Congress.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 316(3); P.L. 96-466, § 346; P.L. 99-576, § 304.)

(c) The committee shall remain in existence until December 31, 1993.

(Added P.L. 89-358, § 3(b); amended P.L. 92-540, § 316(3); P.L. 96-466, § 346; P.L. 100-689, § 123.)

§ 1793. Compliance surveys

(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be apporpriate and in the best interest of the United States Government.

(Added P.L. 89-358, § 3(b); amended P.L. 91-24, § 15; P.L. 92-540, § 403(12); P.L. 94-502, § 511(1); P.L. 100-322, § 322.)

§ 1794. Use of other Federal agencies

In carrying out the Administrator's functions under this chapter or chapter 34 or 35 of this title, the Administrator may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(Added P.L. 89-358, § 3(b); amended P.L. 94-502, § 513(a)(21).)

§ 1795. Limitation on period of assistance under two or more programs

(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

(1) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended.

(2) Title II of the Veterans' Readjustment Assistance Act of 1952.

(3) The War Orphans' Educational Assistance Act of 1956.

(4) Chapters 30, 32, 34, 35, and 36 of this title, and the former chapter 33.

(5) Chapters 106 and 107 of title 10.

(6) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note).

(7) The Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note).

(Added P.L. 90–631, § 1(d)(1); amended P.L. 92–540, § 403(13); P.L. 96–466, §§ 103(1)–(3); P.L. 98–223, § 203(c)(2)(A); P.L. 98–525, § 703(d).)

(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in subsection (a) of this section in excess of 48 months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 1501(5) of this title) in the individual case.

(Added P.L. 96–466, § 103(4); amended P.L. 98–223, § 203(c)(2)(B).)

§ 1796. Limitation on certain advertising, sales, and enrollment practices

(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

(b) To ensure compliance with this section, any institution offering courses approved for the enrollment of eligible persons or veterans shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period. Such record shall be available for inspection by the State approving agency or the Administrator. Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution.

(Added P.L. 94–502, § 512(2).)

(c) The Administrator shall, pursuant to section 1794 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Administrator's determinations under subsection (a) of this section. Such agreement shall provide that cases arising under subsection (a) of this section or any similar matters with respect to any of the requirements of this chapter or chapters 34 and 35 of this title shall be referred to the Federal Trade Commission which in its discretion will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Administrator who shall take appropriate action in such cases within ninety days after such referral.

(Amended P.L. 94-502, § 513(a)(22).)

§ 1797. Funding of contract educational and vocational counseling

(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Veterans' Administration by contract and provided to an individual applying for or receiving benefits under section 524 or chapter 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Veterans' Administration for payment of readjustment benefits.

(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.

(Added P.L. 100-687, § 1302(a).)

SUBCHAPTER III—EDUCATION LOANS

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a)(1) Subject to paragraph (2) of this subsection, each eligible veteran shall be entitled to a loan under this subchapter (if the program of education is pursued in a State) in an amount determined under, and subject to the conditions specified in, subsection (b)(1) of this section if the veteran satisfies the requirements set forth in subsection (c) of this section and the criteria established under subsection (g) of this section.

(2) Except in the case of a veteran to whom section 1662(a)(2) of this title is applicable, no loan may be made under this subchapter after September 30, 1981.

(Added P.L. 93-508, § 301; amended P.L. 95-476, § 201(1); P.L. 97-35, § 2005(d)(1), (2); P.L. 100-689, § 124(b)(1),(2).)

(b)(1) Subject to paragraph (3) of this subsection, the amount of the loan to which an eligible veteran shall be entitled under this subchapter for any academic year shall be equal to the amount needed by such veteran to pursue a program of education at the institution at which the veteran is enrolled, as determined under paragraph (2) of this subsection.

(2)(A) The amount needed by a veteran to pursue a program of education at an institution for any academic year shall be determined by subtracting (i) the total amount of financial resources (as defined in subparagraph (B) of this paragraph) available to the veteran which may be reasonably expected to be expended by such veteran for educational purposes in any year from (ii) the actual cost of attendance (as defined in subparagraph (C) of this paragraph) at the institution in which such veteran is enrolled.

(B) The term "total amount of financial resources" of any veteran for any year means the total of the following:

(i) The annual adjusted effective income of the veteran less Federal income tax paid or payable by such veteran with respect to such income.

(ii) The amount of cash assets of the veteran.

(iii) The amount of financial assistance received by the veteran under the provisions of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(iv) Educational assistance received by the veteran under this title other than under this subchapter.

(v) Financial assistance received by the veteran under any scholarship or grant program other than those specified in clauses (iii) and (iv).

(C) The term "actual cost of attendance" means, subject to such regulations as the Administrator may provide, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Administrator determines by regulation to be reasonably related to attendance at the institution at which the veteran is enrolled.

(3) The aggregate of the amounts any veteran may borrow under this subchapter may not exceed $376 multiplied by the number of months such veteran is entitled to receive educational assistance under section 1661 of this title, but not in excess of $2,500 in any one regular academic year.

(Added P.L. 93-508, § 301; amended P.L. 94-502, §§ 502(a)(1), 513(a)(23); P.L. 95-202, §§ 104(3), 202(1); P.L. 96-466, §§ 203(4), 213(4); P.L. 97-295, § 4(60); P.L. 98-543, § 204(3); P.L. 100-689, § 124(b).)

(c) An eligible veteran shall be entitled to a loan under this subchapter if such veteran—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Administrator may waive the requirements of subclause (B) of this clause, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government;

(2) enters into an agreement with the Administrator meeting the requirements of subsection (d) of this section; and

(3) satisfies any criteria established under subsection (g) of this section.

No loan shall be made under this subchapter to an eligible veteran pursuing a program of correspondence, or apprenticeship or other on-job training.

(Added P.L. 93-508, § 301; amended P.L. 95-202, § 202(2); P.L. 95-476, § 201(2); P.L. 96-466, § 603(b); P.L. 100-689, § 124(b).)

(d) Any agreement between the Administrator and a veteran under this subchapter—

(1) shall include a note or other written obligation which provides for repayment to the Administrator of the principal amount of, and payment of interest on, the loan in installments (A) over a period beginning nine months after the date on which the borrower ceases to be at least a half-time student and ending ten years and nine months after such date, or (B) over such shorter period as the Administrator may have prescribed under subsection (g) of this section;

(2) shall include provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower;

(3) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the Administrator, at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Secretary of Education under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the Administrator exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and

(4) shall provide that the loan shall be made without security and without endorsement.

(Added P.L. 93-508, § 301; amended P.L. 94-502, § 502(a)(2); P.L. 95-476, § 201(3); P.L. 96-466, § 801(g); P.L. 100-689, § 124(b)(1),(2).)

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran concerned in the same manner as any other debt due the United States.

(2) If a veteran who has received a loan under this section dies or becomes permanently and totally disabled, then the Administrator shall discharge the veteran's liability on such loan by repaying the amount owed on such loan.

(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include—

(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; and

(B) data regarding the default experience and default rate with respect to loans made under this section.

(Added P.L. 93-508, § 301; amended P.L. 94-502, § 513(a)(23); P.L. 95-202, § 202(3); P.L. 95-476, § 201(4); P.L. 97-306, § 208; P.L. 100-689, § 124(b)(1),(2).)

(f) Payment of a loan made under this section shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(4) of this title for purposes of section 1784(b) of this title.

Added P.L. 95-202, § 202(4); amended P.L. 95-476, § 201(5); P.L. 96-466, § 601(h); P.L. 100-689, § 124(b)(5).)

(g)(1) The Administrator shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this section.

(2)(A) To ensure that loans are made under this section on the basis of financial need directly related to the costs of education, the Administrator may, by regulation, establish (i) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by subsection (c) and (d) of this section, in order to limit eligibility for such loans to eligible veterans attending educational institutions with relatively high rates of tuition and fees, and (ii) criteria under which the Administrator may prescribe a repayment period for certain types of loans made under this section that is shorter than the repayment period otherwise applicable under subsection (d)(1)(A) of this section. Criteria established by the Administrator under clause (i) of the preceding sentence may include a minimum amount of tuition and fees that an eligible veteran may pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the veteran is eligible as a result of an extension of the period of eligibility of such veteran for loans under this section provided for by section 1662(a)(2) of this title).

(B) In prescribing regulations under subparagraph (A) of this paragraph, the Administrator shall take into consideration information developed in the course of the review required by paragraph (1) of this subsection.

(C) Regulations may be prescribed under subparagraph (A) of this paragraph only after opportunity has been afforded for public comment thereon.

(Added P.L. 95-476, § 201(6); amended P.L. 100-689, § 124(b)(1),(6).)

§ 1799. Revolving fund; insurance

(a) There is hereby established in the Treasury of the United States a revolving fund to be known as the "Veterans' Administration Education Loan Fund" (hereinafter in this section referred to as the "Fund").

(Added P.L. 93-508, § 301.)

(b) The Fund shall be available to the Administrator, without fiscal year limitation, for the making of loans under this subchapter.

(Added P.L. 93-508, § 301.)

(c) There shall be deposited in the Fund (1) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to establish and supplement the Fund in order to meet the requirements of the Fund, and (2) all collections of fees and principal and interest (including overpayments declared under section 1798(e) of this title) on loans made under this subchapter.

(Added P.L. 93-508, § 301.)

(d) The Administrator shall determine annually whether there has developed in the Fund a surplus which, in the Administrator's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall be deemed to have been appropriated for readjustment benefits.

(Added P.L. 93-508, § 301; amended P.L. 94-502, § 513(a)(24).)

(e) A fee shall be collected from each veteran or person obtaining a loan made under this subchapter for the purpose of insuring against defaults on loans made under this subchapter; and no loan shall be made under this subchapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be established from time to time by the Administrator, but shall in no event exceed 3 percent of the total loan amount. The amount of the fee may be included in the loan to the veteran or person and paid from the proceeds thereof.

(Added P.L. 93-508, § 301; amended P.L. 97-295, § 4(61).)

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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SUBCHAPTER I—GENERAL

§ 1801. Definitions

(a) For the purpose of this chapter, the term "housing loan" means a loan for any of the purposes specified by sections 1810(a) and 1812(a)(1) of this title.

(Added P.L. 97-72, § 303(a)(2); amended P.L. 100-322, § 415(c).)

(b) For the purposes of housing loans under this chapter—

(1) The term "World War II" (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term "veteran" includes the surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability, but only if such surviving spouse is not eligible for benefits under this chapter on the basis of the spouse's own active duty. The active duty of the spouse shall be deemed to have been active duty by such surviving spouse for the purposes of this chapter.

(3) The term "veteran" also includes, for purposes of home loans, the spouse of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of the member shall be deemed to have been active duty by such spouse for the purposes of this chapter. The loan eligibility of such spouse under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such loan shall terminate automatically, if not used, upon receipt by such spouse of official notice that the member is no longer listed in one of the categories specified in the first sentence of this paragraph.

(Amended P.L. 91-584, § 5(a); P.L. 94-324, § 7(1), (2); P.L. 97-72, § 303(a)(1), (3); P.L. 97-295, § 4(62).)

(c) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the National Oceanic and Atmospheric Administration (or predecessor entity), or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title III of the Servicemen's Readjustment Act of 1944.

(Amended P.L. 97-72, § 303(a)(1), (4).)

§ 1802. Basic entitlement

(a)(1) The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in paragraph (2) for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (A) shall cancel any unused entitlement derived from service during any earlier such period, and (B) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

(i) on real property which the veteran owns at the time of application; or

(ii) as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

(4) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 1801(b) of this title.

(Amended P.L. 95-476, § 102(a); P.L. 97-72, § 303(b)(1), (2); P.L. 100-322, § 415(a).)

(b) In computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Administrator may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan, if—

(1)(A) the property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(B) the loan has been repaid in full, or the Administrator has been released from liability as to the loan, or if the Administrator has suffered a loss on such loan, the loss has been paid in full; or

(2) a veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct

loan, and the veteran-transferee otherwise meets the requirements of this chapter.

The Administrator may, in any case involving circumstances the Administrator deems appropriate, waive one or more of the conditions prescribed in clause (1) of the preceding sentence.

(Amended P.L. 87-84, § 1(b); P.L. 90-77, § 403(a); P.L. 91-506, § 2(a); P.L. 93-569, § 2(a); P.L. 94-324, § 7(3); P.L. 95-476, § 102(b); P.L. 97-72, § 303(b)(3); P.L. 98-223, § 204.)

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Administrator for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Administrator a report thereon in such detail as the Administrator may, from time to time, prescribe. Where the loan is guaranteed, the Administrator shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. The Administrator shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(Amended P.L. 94-324, § 7(4).)

(d) Housing loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Administrator pursuant to standards established by the Administrator. Any housing loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Administrator if the Administrator finds that it is in accord otherwise with the provisions of this chapter.

(Amended P.L. 86-73, § 1; P.L. 90-19, § 25(1); P.L. 93-569, § 2(b); P.L. 94-324, § 7(4); P.L. 97-72, § 303(b)(4), (5).)

(e) The Administrator may at any time upon thirty days' notice require housing loans to be made by any lender or class of lenders to be submitted to the Administrator for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Administrator.

(Amended P.L. 94-324, § 7(5); P.L. 97-72, § 303(b)(6).)

(f) Any housing loan at least 20 percent of which is guaranteed under this chapter may be made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to—

(1) ratio of amount of loan to the value of the property;
(2) maturity of loan;
(3) requirement for mortgage or other security;
(4) dignity of lien; or
(5) percentage of assets which may be invested in real estate loans.

(Amended P.L. 97-72, § 303(b)(7); P.L. 97-295, § 4(61).)

§ 1803. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan; or

(II) in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 1810 of this title shall be $36,000 reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.

(2)(A) Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Administrator under an agreement whereby the Administrator will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(B) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Administrator may prescribe within the limitations set forth in this chapter.

(Amended P.L. 86-665, § 1; P.L. 87-84, § 1(a); P.L. 90-77, § 403(b); P.L. 91-506, § 2(b); P.L. 93-569, § 8(1); P.L. 95-476, § 103(a); P.L. 97-295, §§ 4(61), (63); P.L. 100-198, § 3(a)(1); P.L. 100-253, § 3(a); P.L. 100-322, § 415(a), (d), (e).)

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(Amended P.L. 91-506, § 2(c)(1); P.L. 93-569, § 8(2).)

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Administrator may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act (12 U.S.C. 1709(b)), and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter. In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1810(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Administrator before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), (9)(B)(i) of section 1810(a) of this title or section 1812(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1810(a)(9)(B)(ii) or 1812(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

(Amended P.L. 86-73, § 2; P.L. 89-358, § 5(d); P.L. 93-75; P.L. 93-569, § 2(c); P.L. 95-476, § 103(b); P.L. 96-385, § 401(c)(1); P.L. 97-295, § 4(63); P.L. 97-306, § 406(b)(2); P.L. 98-223, § 205(c); P.L. 100-322, § 415(c).)

(d)(1) The maturity of any housing loan shall not be more than thirty years and thirty-two days.

(2)(A) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(B) The Administrator may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph—

(i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and

(ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property.

(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the property shall be calculated by the Administrator by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan made for a purpose other than the acquisition of a single-family dwelling unit may not be guaranteed under such subparagraph.

(3) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Administrator may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Administrator determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Administrator's determination must have been made prior to the recordation of the covenant.

(Amended P.L. 91-22, § 4; P.L. 91-506, § 2(c)(2); P.L. 93-569, § 8(3), (4); P.L. 94-324, § 7(6); P.L. 97-66, § 501(a); P.L. 97-72, § 303(c); P.L. 97-295, § 4(63)(C).)

§ 1804. Restrictions on loans

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Administrator; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Administrator may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Administrator may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(Amended P.L. 86-73, § 3(a); P.L. 90-19, § 25(2); P.L. 91-506, § 2(d); P.L. 93-569, § 2(e).)

(c)(1) Except as provided in paragraph (2) of the subsection, no loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Administrator may require, that the veteran intends to occupy the property as the veteran's home. Except as provided in paragraph (2) of this subsection, no loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Administrator, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies for the loan and at the time the loan is closed shall be considered to be satisfied if the Administrator finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

(A) paragraph (1) of this subsection;

(B) paragraphs (1) through (5) and paragraph (7) of section 1810(a) of this title;

(C) section 1812(a)(5)(A)(i) of this title; and

(D) section 1812(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

(Amended P.L. 86-665, § 5; P.L. 93-569, § 2(d); P.L. 94-324, § 7(7); P.L. 100-198, § 8(a); P.L. 100-322, § 415(c).)

(d) Subject to notice and opportunity for a hearing, whenever the Administrator finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Administrator may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Administrator shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Administrator may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(Amended P.L. 86-73, § 3(b); P.L. 90-19, § 25(2); P.L. 91-506, § 2(d); P.L. 93-569, § 2(e); P.L. 94-324, § 7(8).)

(e) No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act (12 U.S.C. 1749aa et seq.)) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to August 10, 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

(Added P.L. 89-117, § 217(b); amended P.L. 90-19, § 25(2); P.L. 97-295, § 4(64)(A), (B).)

(f) Any housing loan which is financed through the assistance of this chapter and to which section 1814 of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 1814.

(Added P.L. 100-198, § 10(b); amended P.L. 100-322, § 415(c).)

§ 1805. Warranties

(a) The Administrator shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the Administrator to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Administrator) on which the Administrator based the Administrator's valuation of the dwelling. The Administrator shall deliver to the builder, seller, or other warrantor the Administrator's written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Administrator deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Administrator) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Administrator on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(Amended P.L. 94-324, § 7(9).)

(b) The Administrator shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Administrator may determine to be reasonable.

§ 1806. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Administrator has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 1804(b) of this chapter.

(Added P.L. 86–665, § 6(a); amended P.L. 94–324, § 7(10).)

(b) If an eligible veteran contracts for the construction of a property in a project on which the Administrator has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provisions of this chapter, it may be considered an unfair marketing practice under section 1804(b) of this chapter if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

(Added P.L. 86–665, § 6(a).)

SUBCHAPTER II—LOANS

§ 1810. Purchase or construction of homes

(a) Except as provided in section 1804(c)(2) of this title, any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations.

(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cool-

ing system or through the application of a residential energy conservation measure.

(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter.

(9)(A)(i) To purchase a manufactured home to be permanently affixed to a lot that is owned by the veteran.

(ii) To purchase a manufactured home and a lot to which the home will be permanently affixed.

(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed to a lot that is owned by the veteran.

(ii) To refinance, in accordance with section 1812(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 1811 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(Amended P.L. 91-506, § 3(1); P.L. 93-569, § 3(1), (2); P.L. 94-324, § 7(11); P.L. 95-476, § 104(1), (2); P.L. 96-385, § 401(a)(1); P.L. 98-223, § 205(a)(1); P.L. 100-198, § 8(a)(2); P.L. 100-322, § 415(c).)

(b) No loan may be guaranteed under this section or made under section 1811 of this title unless—

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk, as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined pursuant to section 1831 of this title; and,

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property.

(Amended P.L. 90-301, § 2(a); P.L. 99-576, § 402(a); P.L. 100-198, § 11(b).)

(c) [Repealed by P.L. 100-198, § 3(a)(2).)]

(d) For the purposes of subsection (a)(7) of this section:

(1) The term "solar heating" has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

(2) The terms "solar heating and cooling" and "combined solar heating and cooling" have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

(3) The term "passive system" includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Administrator to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

(4) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of all exterior doors and windows;

(B) furnace efficiency modifications limited to—

(i) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) water heater insulation;

(F) storm windows and doors;

(G) heat pumps; and

(H) such other energy conservation measures as the Administrator may identify for the purposes of this clause.

(Added P.L. 95-476, § 104(3).)

(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) of this section—

(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced;

(C) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(D) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;

(E) the term of the loan may not exceed the original term of the loan being refinanced by more than 10 years; and

(F) the veteran must own the dwelling or farm residence securing the loan and—

(i) must occupy such dwelling or residence as such veteran's home;

(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence; or

(iii) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy such residence or dwelling as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as such spouse's home and must certify such occupancy in such form as the Administrator shall require.

(2) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.

(Added P.L. 96-385, § 401(a)(2); amended P.L. 100-198, § 7(a).)

(f)(1) For a loan to be guaranteed for the purpose specified in subclause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and must comply with such criteria as may be prescribed by the Administrator in regulations.

(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.

(Added P.L. 98-223, § 205(a)(2).)

(g)(1) For the purposes of this subsection, the term "veteran", when used with respect to a loan guaranteed or to be guaranteed under this chapter, includes the veteran's spouse if the spouse is jointly liable with the veteran under the loan.

(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section 1812(e)(2) of this title, the Administrator shall prescribe regulations which establish—

(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

(3) In the regulations prescribed under paragraph (2) of this subsection, the Administrator shall establish standards that include—

(A) debt-to-income ratios to apply in the case of the veteran applying for the loan;

(B) criteria for evaluating the reliability and stability of the income of the veteran applying for the loan; and

(C) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms.

If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Administrator shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Administrator determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.

(4)(A) Any lender making a loan under this chapter shall certify, in such form as the Administrator shall prescribe, that the leader has complied with the credit information and loan processing standards established under paragraph (2)(B) of this subsection, and that, to the best of the lender's knowledge and belief, the loan meets the underwriting standards established under paragraph (2)(A) of this subsection.

(B) Any lender who knowingly and willfully makes a false certification under subparagraph (A) of this paragraph shall be liable to the United States Government for a civil penalty equal to two times the amount of the Administrator's loss on the loan involved or to another appropriate amount, not to exceed $10,000, whichever is greater. All determinations necessary to carry out this subparagraph shall be made by the Administrator.

(5) Pursuant to regulations prescribed to carry out this paragraph, the Administrator may, in extraordinary situations, waive the application of the credit underwriting standards established under paragraph (2) of this subsection when the Administrator determines, considering the totality of circumstances, that the veteran is a satisfactory credit risk.

(Added P.L. 99-576, § 402(b); amended P.L. 100-198, § 13; P.L. 100-322, § 415(c)(4)(B).)

(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) of this section may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator.

(Added P.L. 100-198, § 7(c).)

§ 1811. Direct loans to veterans

(a) The Congress finds that housing credit for purposes specified in section 1810 or 1812 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(Amended P.L. 91-506, § 4(1); P.L. 100-322, § 415(c), (d).)

(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed for purposes specified in section 1810 or 1812 of this title, the Administrator shall designate such rural area or small city or town as a "housing credit shortage area". The Administrator shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 1810(a) or 1812 of this title (other than the refinancing of a loan under section 1810(a)(8) or 1812(a)(1)(F)).

(Amended P.L. 91-506, § 4(1), (2); P.L. 94-324, § 7(12); P.L. 96-385, § 401(c)(2); P.L. 100-322, § 415(c), (d).)

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or 1812 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(Amended P.L. 91-506, § 4(3); P.L. 94-324, § 7(13); P.L. 97-295, § 4(65)(A); P.L. 97-306, § 406(c)(1); P.L. 100-322, § 415(c).)

(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans, or manufactured home loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

(2)(A) Except for any loan made under this chapter for the purposes described in section 1812 of this title, the original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under section 1810 of this title at the time the loan is made bears to $36,000; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to $36,000 as the amount of the loan bears to $33,000.

(B) The original principal amount of any loan made under this section for the purposes described in section 1812 of this title shall not exceed the amount that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $20,000. The amount of the guaranty entitlement for purposes specified in section 1810 of this title of any veteran who is granted a loan under this section, or who before October 18, 1978, was granted a loan under this section, shall be charged with the amount that bears the same ratio to $20,000 as the amount of the loan bears to $33,000.

(3) No veteran may obtain loans under this section aggregating more than $33,000.

(Amended P.L. 87–84, § 2(a); P.L. 89–358, § 5(e); P.L. 90–77, § 404; P.L. 90–301, § 1(b); P.L. 91–22, § 3; P.L. 91–506, § 4(4), (5), (6); P.L. 93–569, § 4; P.L. 94–324, § 3; P.L. 95–476, § 105(b); P.L. 96–385, § 402(b); P.L. 97–295, § 4(65)(B); P.L. 97–306, § 406(c)(1); P.L. 100–198, § 3(c); P.L. 100–322, § 415(c), (d).)

(e) Loans made under this section shall be repaid in monthly installments, except that in the case of any such loan made for any of the purposes described in paragraphs (2), (3), or (4) of section 1810(a) of this title, the Administrator may provide that such loan shall be repaid in quarterly, semiannual, or annual installments.

(f) In connection with any loan under this section, the Administrator may make advances in cash to pay taxes and assessments on the real estate, to provide for repairs, alterations, and improvements, and to meet the incidental expenses of the transaction. The Administrator shall determine the expenses incident to origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) The Administrator may sell, and shall offer for sale, to any person or entity approved for such purpose by the Administrator, any loan made under this section at a price which the Administrator determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed for purposes specified in section 1810 or 1812 of this title, as appropriate.

(Amended P.L. 88–402; P.L. 91–506, § 4(7); P.L. 92–66; P.L. 94–324, § 7(14); P.L. 100–322, § 415(c), (d).)

(h) The Administrator may exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements prescribed pursuant to subsection (a) of section 1804 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

(Amended P.L. 86–665, § 2; P.L. 87–84, § 2(b); P.L. 91–506, § 4(8).)

(i) The Administrator is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter.

(Added P.L. 91-506, § 4(8).)

(j)(1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title, the Administrator may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Administrator may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not be assigned or transferred except with the written approval of the Administrator. The Administrator shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Administrator in an amount determined by the Administrator, not to exceed 2 percent of the funds reserved for such builder or sponsor.

(2) Whenever the Administrator finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Administrator shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Administrator may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80 percent of the value of the construction in place.

(Amended P.L. 91-506, § 4(8); P.L. 97-295, § 4(65)(C).)

(k) Without regard to any other provision of this chapter, the Administrator may take or cause to be taken such action as in the Administrator's judgment may be necessary or appropriate for or in connection with the custody, management, protection, and realization or sale of investments under this section, may determine the Administrator's necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as the Administrator may deem necessary or appropriate for carrying out the Administrator's functions under this section and section 1823 of this title and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with the Administrator's basic responsibilities under this chapter, delegate any of the Administrator's functions under this section and section 1823 of this title to such persons and such corporate or other agencies, including agencies of the United States, as the Administrator may designate.

(Amended P.L. 94-324, § 7(15).)

§ 1812. Loans to purchase manufactured homes and lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

(A) To purchase a lot on which to place a manufactured home already owned by the veteran.

(B) To purchase a single-wide manufactured home.

(C) To purchase a single-wide manufactured home and a lot on which to place such home.

(D) To purchase a double-wide manufactured home.

(E) To purchase a double-wide manufactured home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection (other than the refinancing under clause (F) of such paragraph of an existing loan) may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(3) Any loan made for the purposes described in clause (C), (E), or (G) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the manufactured home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being refinanced;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;

(v) the term of the loan may not exceed the original term of the loan being refinanced; and

(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Administrator shall require.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made for purposes specified in this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran (except as provided in section 1804(c)(2) of this title) as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(1); P.L. 95-476, § 107(a); P.L. 96-385, § 401(b); P.L. 97-72, § 303(h); P.L. 97-306, § 406(a), (c)(2); P.L. 98-223, § 205(b); P.L. 100-198, §§ 7(b), 8(b)(1); P.L. 100-322, § 415(b).)

(b)(1) Use of entitlement for purposes specified in this section for the purchase of a manufactured home unit shall preclude the use of remaining entitlement for the purchase of an additional manufactured home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(Added P.L. 93-506, § 5; amended P.L. 93-569, § 5(2); P.L. 95-476, § 107(a); P.L. 97-72, § 303(i); P.L. 97-306; § 406(c)(2); P.L. 100-322, § 415(b).)

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in manufactured home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty for purposes specified in this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to

be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Administrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The maximum amount of guaranty entitlement available to a veteran for purposes specified in this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran. Use of entitlement for purposes specified in section 1810 or 1811 of this title shall reduce entitlement available for use for purposes specified in this section to the same extent that entitlement available for purposes specified in such section 1810 is reduced below $20,000.

(5) The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(3), (4); P.L. 94-324, §§ 5, 7(20); P.L. 95-476, § 107(b); P.L. 96-385, § 402(c); P.L. 97-306, § 406(c)(2); P.L. 100-198, § 3(b); P.L. 100-253, § 3(b); P.L. 100-322§ 415(b).)

(d)(1) The maturity of any loan guaranteed for purposes specified in this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide manufactured home; or

(ii) a single-wide manufactured home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchases of a double-wide manufactured home and a lot.

(Amended P.L. 97-66, § 503; P.L. 97-306, § 406(c)(2); P.L. 100-322, § 415(b).)

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(5), (6); P.L. 94-324, § 7(21); P.L. 95-476, § 107(c).)

(e) No loan shall be guaranteed for purposes specified in this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 1810(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2);

(6) the manufactured home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(7); P.L. 94-324, § 7(22); P.L. 95-476, § 107(d); P.L. 97-306, § 406(c)(2); P.L. 99-576, § 402(c)(2); P.L. 100-198, § 8(b)(2); P.L. 100-322, § 415(b).)

(f) The Administrator shall establish such rate of interest for manufactured home loans and manufactured home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of manufactured home loan financing for veterans for purposes specified in this section.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(8); P.L. 94-324, § 7(23); P.L. 97-306, § 406(c)(2); P.L. 100-322, § 415(b).)

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made for purposes specified in this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(Added P.L. 91-506, § 5; amended P.L. 94-324, § 7(23); P.L. 97-306, § 406(c)(2); P.L. 100-322, § 415(b).)

(h)(1) No loan for the purchase of a manufactured home shall be guaranteed for purposes specified in this section unless the manufactured home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a manufactured home owned by a veteran shall be guaranteed for purposes specified in this section unless the lot meets such standards prescribed for manufactured home lots. Such standards shall be designed to encourage the maintenance and development of sites for manufactured homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of manufactured homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of manufactured homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of manufactured homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of manufactured homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(9); P.L. 95-476, § 107(f); P.L. 97-306, § 406(c)(2); P.L. 100-322, § 415(b).)

(i) The Administrator shall require the manufacturer to become a warrantor of any new manufactured home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the manufactured home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(Added P.L. 91–506, § 5; amended P.L. 95–476, § 107(g)(1); P.L. 97–306, § 406(c)(2).)

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of manufactured homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of manufactured homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(Added P.L. 91–506, § 5; amended P.L. 94–324, § 7(23); P.L. 95–476, § 107(g)(1); P.L. 97–306, § 406(c)(2).)

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase manufactured homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(Added P.L. 91–506, § 5; amended P.L. 94–324, § 7(23); P.L. 97–306, § 406(c)(2).)

(l) The Administrator's annual report to Congress shall, beginning 12 months following October 23, 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(Added P.L. 91–506, § 5; amended P.L. 95–476, § 107(g).)

(m) The provisions of sections 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making guaranteed manufactured home loans and manufactured home lot loans and holders of such loans.

(Added P.L. 91-506, § 5; amended P.L. 93-569, § 5(10); P.L. 97-306, § 406(c)(2).)

§ 1813. Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Administrator, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as the Administrator may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible for purposes specified in section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(Amended P.L. 94-324, § 7(18); P.L. 97-72, § 303(f)(1); P.L. 100-322, § 415(b).)

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if the Administrator determines, after such investigation as the Administrator deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Administrator would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Administrator for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under subsection 3102(b) of this title, if eligible thereunder.

(Added P.L. 92-328, § 204; amended P.L. 94-324, § 7(19); P.L. 97-72, § 303(f)(2).)

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

(Added P.L. 100–198, § 10(a).)

§ 1814. Assumptions; release from liability

(a)(1) Except as provided in subsection (f) of this section, if a veteran or any other person disposes of residential property securing a loan guaranteed, insured, or made under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Administrator with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person—

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Administrator shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 1802.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

(A) notify the transferor and the Administrator of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Administrator.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Administrator shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Administrator made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Administrator shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Administrator.

(B)(i) If the Administrator determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Administrator with respect to such loan.

(ii) If the Administrator determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Administrator may direct the holder to approve the assumption of the loan if—

(I) the Administrator determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Veterans' Administration and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Administrator approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If—

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

(Amended P.L. 100-689, § 302.)

(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Administrator of such action.

(2) If the holder fails to notify the Administrator in such a case, the holder shall be liable to the Administrator for any damage sustained by the Administrator as a result of the holder's failure, as determined at the time the Administrator is required to make payments in accordance with any insurance or guaranty provided by the Administrator with respect to the loan concerned.

(d) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and 1/2 times larger than the regular type on such page the following: This loan is not assumable without the approval of the Veterans' Administration or its authorized agent.

(e) The Administrator shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

(f)(1) This section shall apply—

(A) in the case of loans other than loans to finance the purchase of real property described in section 1833(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

(B) in the case of loans to finance the purchase of such property, only to loans which are closed more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988.

(2) This section shall not apply to a loan which the Administrator has sold without recourse.

(Added P.L. 100-198, § 10(a); amended P.L. 100-322, § 415(b); P.L. 100-689, § 302.)

[§ 1818. Repealed, P.L. 100-322, § 415(b).]

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 1820. Powers of Administrator

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Administrator may—

(1) sue and be sued in the Administrator's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Administrator, the Veterans' Administration, or any of its employees;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Administrator determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or

otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3302(b) of title 31 or any other provision of law not expressly in limitation of this paragraph, the Administrator may permit brokers utilized by the Administrator in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of any such properties and remit the net balances to the Administrator.

(Amended P.L. 88-151, § 1; P.L. 89-625; P.L. 91-606, § 233(1); P.L. 92-328, § 205; P.L. 94-324, § 7(24), (25); P.L. 95-117, § 403(a); P.L. 97-258, § 3(k); P.L. 98-160, § 702;.)

(b) The powers granted by this section may be exercised by the Administrator without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds; however, section 3709 of the Revised Statutes (41 U.S.C. 5) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds the amount prescribed in clause (1) of the first sentence of such section.

(Amended P.L. 98-160, § 702; P.L. 99-576, § 404.)

(c) The financial transactions of the Administrator incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

(e)(1) The Administrator is authorized from time to time, as the Administrator determines advisable, to set aside first mortgage loans, and installment sale contracts, owned and held by the Administrator under this chapter as the basis for the sale of participation certificates as herein provided. For this purpose the Administrator may enter into agreements, including trust agreements, with the Government National Mortgage Association, and any other Federal agency, under which the Association as fiduciary may sell certificates of participation based on principal and interest collections to be received by the Administrator and the Association or any other such agency on first mortgage loans and installment sale contracts comprising mortgage pools established by them. The agreement may provide for substitution or withdrawal of mortgage loans, or installment sale contracts, or for substitution of cash for mortgages in the pool. The agreement shall provide that the Government National Mortgage Association shall promptly pay to the Administrator the entire proceeds of any sale of certificates of participation to the extent such certificates are based on mortgages, including installment sale contracts, set aside by the Administrator and the Administrator shall periodically pay to the Association, as fiduciary, such funds as are required for payment of interest and principal due on outstanding certificates of participation to the extent of the pro rata amount allocated to the Administrator pursuant to the agreement. The agreement shall also provide that the Administrator shall retain ownership of mortgage loans and installment sale contracts set aside by the Administrator pursuant to the agreement unless transfer of ownership to the fiduciary is required in the event of default or probable default in the payment of participation certificates. The Administrator is authorized to purchase outstanding certificates of participation to the extent of the amount of the Administrator's commitment to the fiduciary on participants outstanding and to pay the Administrator's proper share of the costs and expenses incurred by the Government National Mortgage Association as fiduciary pursuant to the agreement.

(2) The Administrator shall proportionately allocate and deposit the entire proceeds received from the sale of participations into the funds established pursuant to sections 1823 and 1824 of this chapter, as determined on an estimated basis, and the amounts so deposited shall be available for the purposes of the funds. The Administrator may nevertheless make such allocations of that part of the proceeds of participation sales representing anticipated interest collections on mortgage loans, including installment sale contracts, on other than an estimated proportionate basis if determined necessary to assure payment of interest on advances theretofore made to the Administrator by the Secretary of the Treasury for direct loan purposes. The Administrator shall set aside and maintain necessary reserves in the funds established pursuant to sections 1823 and 1824 of this chapter to be used for meeting commitments pursuant to this subsection and, as the Administrator determines to be necessary, for meeting interest payments on advances by the Secretary of the Treasury for direct loan purposes.

(Added P.L. 88-560, § 701(e)(1); amended P.L. 90-448, § 807(h); P.L. 94-324, § 7(26).)

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Administrator under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Administrator shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forebearance or indulgence to such owner as the Administrator determines to be warranted by the facts of the case and the circumstances of such owner.

(Added P.L. 89-769, § 3(c); amended P.L. 91-606, § 233(2); P.L. 93-288, § 602(1); P.L. 97-295, § 4(67); P.L. 100-707, § 109(n).)

§ 1821. Incontestability

Any evidence of guaranty or insurance issued by the Administrator shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Administrator from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Administrator shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

[§ 1822. Repealed. P.L. 93-569, § 7(a).]

§ 1823. Direct loan revolving fund

(a) For the purposes of section 1811 of this title, the revolving fund heretofore established by section 513 of the Servicemen's Readjustment Act of 1944 is continued in effect. For the purposes of further augmenting the revolving fund, the Secretary of the Treasury is authorized and directed to advance to the Administrator from time to time after December 31, 1958, and until June 30, 1961, such sums (not in excess of $150,000,000 in any one fiscal year, including prior advancements in fiscal year 1959) as the Administrator may request, except that the aggregate so advanced in any one quarter annual period shall not exceed the sum of $50,000,000, less that amount which has been returned to the revolving fund during the preceding quarter annual period from the sale of loans pursuant to section 1811(g) of this title. In addition to the sums authorized in this subsection the Secretary of the Treasury shall also advance to the Administrator such additional sums, not in excess of $100,000,000, as the Administrator may request, and the sums so advanced shall be made available without regard to any limitation contained in this subsection with respect to the amount which may be advanced in any one quarter annual period. The Secretary of the Treasury shall also advance to the Administrator from time to time such additional sums as the Administrator may request, not in excess of $100,000,000 to be immediately available, plus an additional amount not in excess of $400,000,000 after June 30, 1961, plus $200,000,000 after June 30, 1962, plus $150,000,000 after June 30, 1963, plus $150,000,000 after June 30, 1964, plus $100,000,000 after June 30, 1965, plus $100,000,000 after June 30, 1966. Any such authorized advance which is not requested by the Administrator in the fiscal year in which the advance may be made shall be made thereafter when requested by the Administrator, except that no such request or advance may be made after June 30, 1967. Such authorized advances are not subject to the quarter annual limitation in the second sentence of this subsection, but the amount authorized to be advanced in any fiscal year after June 30, 1962, shall be reduced only by the amount which has been returned to the revolving fund during the preceding fiscal year from the sale of loans pursuant to section 1811(g) of this title. In addition the Secretary is authorized and directed to make available to the Administrator for this purpose from time to time as the Administrator may request the amount of any funds which may have been deposited to the credit of miscellaneous receipts under this subsection or subsection (c) of this section.

(Amended P.L. 86-73, § 4; P.L. 86-665, § 4(a); P.L. 87-84, § 3(a); P.L. 88-560, § 701(e)(2); P.L. 94-324, §§ 6(1), 7(27).)

(b) On advances to such revolving fund by the Secretary of the Treasury, less those amounts deposited in miscellaneous receipts under subsections (a) and (c) the Administrator shall pay semiannually to the Treasurer of the United States interest at the rate or rates determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the advance. The Administrator shall not be required to pay interest on transfers made pursuant to the Act of February 13, 1962 (76 Stat. 8), from the capital of the "direct loans to veterans and reserves revolving fund" to the "loan guaranty revolving fund" and adjustments shall be made for payments of interest on such transfers before February 29, 1964.

(Amended P.L. 88-274; P.L. 97-295, § 4(68).)

(c) In order to make advances to such revolving fund, as authorized by law to effectuate the purposes and functions authorized in section 1811 of this title, the Secretary of the Treasury may use, as a public debt transaction, the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 include such purposes. Such sums, together with all receipts under this section and section 1811 of this title, shall be deposited with the Treasurer of the United States, in a special deposit account, and shall be available, respectively, for disbursement for the purposes of section 1811 of this title. Except as otherwise provided in subsection (a) of this section, the Administrator shall from time to time cause to be deposited into the Treasury of the United States, to the credit of miscellaneous receipts, such of the funds in such account as in the Administrator's judgment are not needed for the purposes for which they were provided, including the proceeds of the sale of any loans.

(Amended P.L. 86-665, § 4(b); P.L. 87-84, § 3(b); P.L. 88-560, § 701(e)(2); P.L. 94-324, §§ 6(2), 7(27); P.L. 97-452, § 2(e)(2).)

(d)(1) The Secretary of the Treasury shall transfer from the direct loan revolving fund to the loan guaranty revolving fund established by section 1824(a) of this title such amounts as the Administrator determines are not needed in the direct loan revolving fund.

(2) Not later than 30 days after the date on which the Secretary makes a transfer under paragraph (1) of this subsection, the Administrator shall submit a notice of such transfer to the appropriate committees of the Congress.

(Added P.L. 99-576, § 405.)

§ 1824. Loan guaranty revolving fund

(a) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Loan Guaranty Revolving Fund (hereinafter called the Fund).

(Added P.L. 86–665, § 7(a).)

(b) The Fund shall be available to the Administrator when so provided in appropriation Acts and within such limitations as may be included in such Acts, without fiscal year limitation, for all housing loan guaranty and insurance operations under this chapter, except administrative expenses. For purposes of this subsection, the term 'administrative expenses' shall not include expenses incurred by the Administrator for appraisals performed after February 1, 1986, on a contractual basis in connnection with the liquidation, of housing loans guaranteed, insured, or made under this chapter.

(Added P.L. 86–665, § 7(a); amended P.L. 97–72, § 303(j)(1); P.L. 99–322, § 2(a).)

(c) There shall be deposited in the Fund (1) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to supplement the Fund in order to meet the requirements of the Fund, (2) amounts received by the Administrator as fees collected under section 1829 of this title, and (3) all amounts now held or hereafter received by the Administrator incident to housing loan guaranty and insurance operations under this chapter, including but not limited to all collections of principal and interest and the proceeds from the use of property held or the sale of property disposed of.

(Added P.L. 86–665, § 7(a); amended P.L. 97–72, § 303(j)(2); P.L. 98–369, § 2511(b).)

(d) The Administrator shall determine annually whether there has developed in such Fund a surplus which, in the Administrator's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall immediately be transferred into the general fund receipts of the Treasury.

(Added P.L. 86–665, § 7(a); amended P.L. 94–324, § 7(28).)

(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for—

(A) contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract; and

(B) the acquisition of such supplementary equipment described in such paragraph,

(not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not per-

formed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things, the services of—

(A) appraisers to review appraisal reports and issue certificates of reasonable value;

(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certifications;

(F) contractors to list for sale in local newswpapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

(G) contractors to prepare closing documents and review them after closing; and

(H) contractors to provide automated data processing equipment, supplies, services, and software for carring out the program administered under this chapter.

(3) The Administrator may not in any fiscal year obligate more than $25,000,000 for services or equipment under this subsection.

(Added P.L. 100-689, § 303.)

§ 1825. Waiver of discharge requirements for hospitalized persons

The benefits of this chapter may be afforded to any person who is hospitalized pending final discharge from active duty, if said person is qualified therefor in every respect except for discharge.

(Amended P.L. 94-324, § 7(29).)

§ 1826. Withholding of payments, benefits, etc.

No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law adminstered by the Veterans' Administration) which such veteran or surviving spouse would otherwise be entitled to receive because of any liability to the Administrator allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.

(Added P.L. 89-358, § 5(f)(1); amended P.L. 94-324, § 7(30); P.L. 97-66, § 504.)

§ 1827. Expenditures to correct or compensate for structural defects in mortgaged homes

(a) The Administrator is authorized, with respect to any property improved by a one- to four-family dwelling inspected during construction by the Veterans' Administration or the Federal Housing Administration which the Administrator finds to have structural defects seriously affecting the livability of the property, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property; except that such authority of the Administrator shall exist only (A) if the owner requests assistance under this section not later than four years (or such shorter time as the Administrator may prescribe) after the mortgage loan was made, guaranteed, or insured, and (B) if the property is encumbered by a mortgage which is made, guaranteed, or insured under this chapter after the date of enactment of this section.

(Added P.L. 90–301, § 5(a); amended P.L. 94–324, § 7(31).)

(b) The Administrator shall by regulation prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and the Administrator's decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive, and shall not be subject to judicial review.

(Added P.L. 90–301, § 5(a); amended P.L. 94–324, § 7(31).)

(c) The Administrator is authorized to make expenditures for the purposes of this section from the funds established pursuant to sections 1823 and 1824 of this title, as applicable.

(Added P.L. 90–301, § 5(a).)

§ 1828. Exemption from State anti-usury provisions

If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law (1) limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, (2) restricting the manner of calculating such interest (including prohibition of the charging of interest on interest), or (3) requiring a minimum amortization of principal, then loans guaranteed or insured under this chapter are also exempt from the application of such provisions.

(Added P.L. 96–128, § 401(a); amended P.L. 97–66, § 501(b).)

§ 1829. Loan fee

(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one percent of the total loan amount. The amount of the fee may be included in the loan and paid from the proceeds thereof.

(Added P.L. 97-253, § 406(a)(1); amended P.L. 98-369, § 2511(a).)

(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(Added P.L. 97-253, § 406(a)(1); amended P.L. 100-198, § 2(b).)

(c) A fee may not be collected under this section with respect to any loan closed after September 30, 1989.

(Amended P.L. 98-369, § 2511(a); P.L. 100-198, § 2(a); P.L. 100-203, § 7002.)

(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.

(Added P.L. 100-198, § 10(C); amended P.L. 100-322, § 415(c).)

§ 1830. Use of attorneys in court

(a) Within 180 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Administrator under this chapter and to recover possession of any property acquired by the Administrator under this chapter. The Administrator may acquire the services of attorneys, other than those who are employees of the Veterans' Administration, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

(Added P.L. 98-369, § 2512(b)(1); amended P.L. 99-576, § 406.)

(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

§ 1831. Appraisals

(a) The Administrator shall—

(1) subject to subsection (b)(2) and in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers, including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers;

(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

(3) in consultation with local representatives of institutions described in clause (1) of this subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

(Amended P.L. 100-198, § 11(a).)

(b)(1) The Administrator shall select appraisers from a list required by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Administrator may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.

(Amended P.L. 100-198, § 11(a).)

(c) Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

(Amended P.L. 100-198, § 11(b).)

(d) If a lender (other than a lender authorized under subsection (f) of this section to determine reasonable value)——

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Administrator, has furnished to the Administrator an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Administrator shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(Amended P.L. 100-198, § 11(b).)

(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

(2) If a veteran, within a reasonable period prescribed by the Administrator, has furnished to the Administrator an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Administrator shall consider such appraisal, along with other appraisals furnished to the Administrator, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(Added P.L. 99-576, § 407(a).)

(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 1802(d) of this title. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

(2) In exercising the authority provided in paragraph (1) of this subsection, the Administrator shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

(3) The authority provided in this subsection shall terminate on October 1, 1990.

(Added P.L. 100-198, § 11(b).)

§ 1832. Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. If the Administrator makes such a payment, the Administrator shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2) Before suit or foreclosure the holder of the obligation shall notify the Administrator of the default, and within thirty days thereafter the Administrator may, at the Administrator's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forebearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Administrator.

(3) The Administrator may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by paragraph (2) of this subsection, and

(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Administrator has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Administrator shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(C) The authority to carry out this paragraph shall terminate on March 1, 1991.

(Amended P.L. 94-324, § 7(17); P.L. 98-369, § 2512(a)(1); P.L. 100-198, § 4(a); P.L. 100-322, § 415(b).)

(b) With respect to any loan made under section 1811 which has not been sold as provided in subsection (g) of such section, if the Administrator finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Administrator shall (1) extend the time for curing the default to such time as the Administrator determines is necessary and desirable to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Administrator may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(Added P.L. 89-117, § 107(f); amended P.L. 94-324, § 7(17); P.L. 100-322, § 415(b).)

(c)(1) For purposes of this subsection—

(A) The term "defaulted loan" means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

(B) The term "liquidation sale" means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term "net value", with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term "total indebtedness", with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by regulations prescribed by the Administrator to implement this subsection) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Administrator.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection).

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(ii) The Administrator may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (5)(A) or (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused—

(i) by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6), (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Veterans' Administration in the liquidation sale of the property securing such loan, any interest which has accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall cease to have effect on October 1, 1989.

(Added P.L. 98-369, § 2512(a)(2); amended P.L. 100-198, § 5(a); P.L. 100-322, § 415(b).)

§ 1833. Property management

(a)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans

made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider—

(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

(ii) the total cost of selling such notes with recourse, including—

(I) any estimated discount or premium;

(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

(V) the loss or gain on resale of such properties; and

(VI) any other cost determined appropriate by the Administrator.

(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing—

(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

(ii) the results of the sale in comparison to the anticipated results; and

(iii) actions taken by the Administrator to facilitate the marketing of the notes involved.

(C) Beginning on October 1, 1989, the Administrator may sell any note evidencing such a loan—

(i) with recourse; or

(ii) without recourse but only if the amount received is equal to an amount which is not less then the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Administrator may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in paragraph (5) of this subsection.

(ii) A loan described in subparagraph (A) of this paragraph may, to the extent the Administrator determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Administrator may include, as part of a loan to finance a purchase of real property from the Administrator described in paragraph (1) of this subsection, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) This subsection shall cease to have effect on October 1, 1990.

(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans' Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.

(Added P.L. 98-369, § 2512(a)(2); amended P.L. 100-136, § 2; P.L. 100-198, § 6(a),(b); P.L. 100-203, §§ 7001, 7003(a); P.L. 100-253, § 2; P.L. 100-322, § 415(b); P.L. 100-689, § 301.)

(b) The Administrator may not make a loan to finance a purchase of property acquired by the Administrator as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 1810(g)(2)(A) of this title.

(Added P.L. 99-576, § 402(c)(1); P.L. 100-322, § 415(b).)

(c)(1) The Administrator shall identify and compile information on common factors which the Administrator finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Administrator shall include a summary of the information compiled, and the Administrator's findings, under paragraph (1) of this subsection in the annual report submitted to the Congress under section 214 of this title. As part of such summary and findings, the Administrator shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

(Added P.L. 99-576, § 403; amended P.L. 100-322, § 415(b).)

(d)(1) The Administrator shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.

(2) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.

(Added P.L. 99-576, § 408(a); amended P.L. 100-198, § 14; P.L. 100-322, § 415(b).)

SUBCHAPTER IV—SMALL BUSINESS LOANS

§ 1841. Definitions

For the purposes of this subchapter—

(1) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a veteran whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term "veteran of the Vietnam era" means a person (A) who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and who was discharged or released therefrom with other than a dishonorable discharge, or (B) who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

(Amended P.L. 99-576, § 702(9).)

§ 1842. Small business loan program

(a)(1) Subject to subsection (b) of this section, the Administrator may provide financial assistance to veterans' small business concerns for the purpose of (A) financing plant construction, conversion, or expansion (including the acquisition of land), (B) financing the acquisition of equipment, facilities, machinery, supplies, or materials, or (C) supplying such concerns with working capital.

(2) Subject to paragraph (3)(A) of this subsection, financial assistance under this section may be provided in the form of (A) loan guaranties, or (B) direct loans.

(3) The Administrator shall specify in regulations the criteria to be met for a business concern to qualify as a veterans' small business concern for the purposes of this subchapter. Such regulations shall include requirements—

(A) that at least 51 percent of a business concern must be owned by individuals who are veterans of the Vietnam era or disabled veterans in order for such concern to qualify for a loan guaranty and that at least 51 percent of a business concern must be owned by disabled veterans in order for such concern to qualify for a direct loan; and

(B) that the management and daily business operations of the concern must be directed by one or more of the veterans whose ownership interest is part of the majority ownership for the purposes of meeting the requirement in clause (A) of this paragraph.

(Added P.L. 97-72, § 302(a); amended P.L. 99-576, § 702(10).)

(b) The availability of financial assistance under subsection (a) of this section is subject to the following limitations:

(1) The Administrator may not make a direct loan under this section unless the veterans' small business concern applying for the loan shows to the satisfaction of the Administrator that the concern is unable to obtain a loan guaranteed by the Veterans' Administration under this section or made or guaranteed by the Small Business Administration.

(2) The Administrator may not guarantee a loan under this section if the loan bears a rate of interest in excess of the maximum rate of interest prescribed under section 1845 of this title.

(3) The Administrator may not make or guarantee a loan under this section for an amount in excess of $200,000.

(4) The original liability of the Administrator on any loan guaranteed under this section may not exceed 90 percent of the amount of the loan, and such liability shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the loan, but such liability may not exceed the amount of the original guaranty.

(Added P.L. 97-72, § 302(a); amended P.L. 99-576, § 702(10).)

(c) Each loan made or guaranteed under this subchapter shall be of such sound value, taking into account the creditworthiness of the veterans' small business concern (and the individual owners) applying for such loan, or so secured as reasonably to assure payment.

(Added P.L. 97-72, § 302(a).)

(d)(1) Except as provided in paragraph (2) of this subsection, the Administrator may not make or guarantee a loan under this subchapter to a veterans' small business concern in which an ownership interest is held by a veteran who also has an ownership interest in another small business concern if such ownership interest was considered in qualifying that other concern for an outstanding loan made or guaranteed under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(2) Paragraph (1) of this subsection shall not apply if 51 percent or more of the business concern seeking a direct or guaranteed loan under this subchapter is owned by veterans of the Vietnam era or disabled veterans without including the ownership interest of the veteran whose ownership interest in another small business concern was previously considered in qualifying that other concern for an outstanding guaranteed or direct business loan under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(Added P.L. 97-72, § 302(a); amended P.L. 99-576, § 702(10).)

(e)(1) In order to protect the interest of the United States, upon application by a veterans' small business concern which is the recipient of a loan guaranteed under this subchapter, the Administrator (subject to the provisions of this subsection) may undertake the veterans' small business concern's obligation to make payments under such loan or, if the loan was a direct loan made by the Administrator, may suspend such obligation. While such payments are being made by the Administrator pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the concern.

(2) The Administrator may undertake or suspend a veterans' small business concern's obligation under this subsection only if—

(A) such undertaking or suspension of the obligation is, in the judgment of the Administrator, necessary to protect the interest of the United States;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the judgment of the Administrator, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Administrator as provided by paragraph (4) of this subsection.

(3) The period of time for which the Administrator undertakes or suspends the obligation on a loan under this subsection may not exceed five years. The Administrator may extend the maturity of any loan on which the Administrator undertakes or suspends the obligation under this subsection for a corresponding period of time.

(4)(A) Before the Administrator may undertake or suspend a veterans' small business concern's obligation under this subsection, the Administrator shall require the small business concern to execute an agreement to repay the aggregate amount of the payments which were required under the loan during the period for which the obligation was undertaken or suspended—

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period,

(ii) pursuant to a repayment schedule agreed upon by the Administrator and the small business concern, or

(iii) by a combination of the method of payments described in clauses (i) and (ii) of this subparagraph.

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A) of this paragraph, the Administrator shall, before the undertaking or suspension of the obligation, take such action and require the small business concern to take such action as the Administrator considers appropriate in the circumstances, including the provision of such security as the Administrator considers necessary or appropriate, to assure that the rights and interest of the United States and any lender will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(Added P.L. 97-72, § 302(a).)

§ 1843. Liability on loans

Each individual who has an ownership interest in a veterans' small business concern that is provided a direct loan under this subchapter, or that obtains a loan guaranteed under this subchapter, shall execute a note or other document evidencing the direct or guaranteed business loan, and such individuals shall be jointly and severally liable to the United States for the amount of such direct loan or, in the case of a guaranteed loan, for any amount paid by the Administrator on account of such loan.

(Added P.L. 97-72, § 302(a).)

§ 1844. Approval of loans by the Administrator

(a) Except as provided in subsection (b) of this section, a loan may not be guaranteed under this subchapter unless, before the closing of the loan, it is submitted to the Administrator for approval and the Administrator grants approval.

(Added P.L. 97-72, § 302(a).)

(b) The Administrator may exempt any lender of a class of lenders listed in section 1802(d) of this title from the prior approval requirement in subsection (a) of this section if the Administrator determines that the experience of such lender or class of lenders warrants such exemption.

(Added P.L. 97-72, § 302(a).)

(c) The Administrator may at any time upon thirty days' notice require loans to be made by any lender or class of lenders under this subchapter to be submitted to the Administrator for prior approval. No guaranty shall exist with respect to any such loan unless evidence of the guaranty is issued by the Administrator.

(Added P.L. 97-72, § 302(a).)

§ 1845. Interest on loans

(a) Loans guaranteed under this subchapter shall bear interest not in excess of such rate as the Administrator may from time to time find the loan market demands. In establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Administrator of the Small Business Administration.

(b) The rate of interest on any direct loan made by the Administrator under this subchapter may not exceed the maximum rate in effect under subsection (a) of this section at the time the direct loan is made.

(Added P.L. 97-72, § 302(a).)

§ 1846. Maturity of loans

The maturity of a loan made or guaranteed under this subchapter that is used in whole or in part for the construction, conversion, or expansion of facilities or for acquisition of real property may not exceed twenty years plus such additional reasonable time as the Administrator may determine, at the time the loan is made, is required to complete the construction, acquisition, or expansion of such facilities. The maturity of any other loan made or guaranteed under this subchapter may not exceed ten years.

(Added P.L. 97-72, § 302(a).)

§ 1847. Eligible financial institutions

The Administrator may not guarantee under this subchapter a loan made by an entity not subject to examination and supervision by an agency of the United States or of a State.

(Added P.L. 97-72, § 302(a).)

§ 1848. Preference for disabled veterans

In the extension of financial assistance under this subchapter, the Administrator shall give preference, first, to veterans' small business concerns in which disabled veterans who have successfully completed a vocational rehabilitation program for self-employment in a small business enterprise under chapter 31 of this title have a significant ownership interest, and, second, to veterans' small business concerns in which other disabled veterans have a significant ownership interest.

(Added P.L. 97-72, § 302(a).)

§ 1849. Revolving fund

(a) There is established in the Treasury a revolving fund to be known as the "Veterans' Administration Small Business Loan Revolving Fund" (hereinafter in this section referred to as the "fund").

(Added P.L. 97-72, § 302(a).)

(b) Amounts in the fund shall be available to the Administrator without fiscal year limitation for all loan guaranty and direct loan operations under this subchapter other than administrative expenses and may not be used for any other purpose.

(Added P.L. 97-72, § 302(a).)

(c)(1) There is authorized to be appropriated to the fund a total of $25,000,000.

(2) There shall be deposited into the fund all amounts received by the Administrator derived from loan operations under this subchapter, including all collection of principal and interest and the proceeds from the use of property held or of property sold.

(Added P.L. 97-72, § 302(a); amended P.L. 99-576, § 702(11).)

(d) The Administrator shall determine annually whether there has developed in the fund a surplus which, in the Administrator's judgment, is more than necessary to meet the needs of the fund. Any such surplus shall immediately be transferred into the general fund of the Treasury.

(Added P.L. 97-72, § 302(a).)

(e) Not later than two years after the termination of the authority of the Administrator to make new commitments for financial assistance under this subchapter, the Administrator shall transfer into the general fund of the Treasury all amounts in the fund except those that the Administrator determines may be required for the liquidation of obligations under this subchapter. All amounts received thereafter derived from loan operations under this subchapter, except so much thereof as the Administrator may determine to be necessary for liquidating outstanding obligations under this subchapter, shall also be so deposited.

(Added P.L. 97-72, § 302(a).)

§ 1850. Incorporation of other provisions by the Administrator

The Administrator may provide that the provisions of sections of other subchapters of this chapter that are not otherwise applicable to loans made or guaranteed under this subchapter shall be applicable to loans made or guaranteed under this subchapter. The Administrator shall exercise authority under the preceding sentence by regulations prescribed after publication in the Federal Register and a period of not less than thirty days for public comment.

(Added P.L. 97-72, § 302(a).)

§ 1851. Termination of program

The Administrator may not make commitments for financial assistance under this subchapter after September 30, 1986.

(Added P.L. 97-72, § 302(a).)

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

Sec.
1901. Definitions.
1902. Assistance for providing automobile and adaptive equipment.
1903. Limitations on assistance; special training courses.
1904. Research and development.

§ 1901. Definitions

For purposes of this chapter—

(1) The term "eligible person" means—

(A) any veteran entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), or (iii) below, if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service:

(i) The loss or permanent loss of use of one or both feet;

(ii) The loss or permanent loss of use of one or both hands;

(iii) The permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye; or

(B) any member of the Armed Forces serving on active duty who is suffering from any disability described in subclause (i), (ii), or (iii) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service.

(2) The term "adaptive equipment" includes, but is not limited to, power steering, power brakes, power window lifts, power seats, and special equipment necessary to assist the eligible person into and out of the automobile or other conveyance. Such term also includes (A) air-conditioning equipment when such equipment is necessary to the health and safety of the veteran and to the safety of others, regardless of whether the automobile or other conveyance is to be operated by the eligible person or is to be operated for such person by another person; and (B) any modification of the size of the interior space of the automobile or other conveyance if needed because of the physical condition of such person in order for such person to enter or operate the vehicle.

(Amended P.L. 90-77, § 204(a); P.L. 91-666, § 2(a); P.L. 93-538, § 2; P.L. 94-433, § 303; P.L. 95-116.)

§ 1902. Assistance for providing automobile and adaptive equipment

(a) The Administrator, under regulations which the Administrator shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or $5,500, whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

(Amended P.L. 91-666, § 2(a); P.L. 93-538, § 3 (1), (2); P.L. 95-479, § 304; P.L. 97-66, §§ 301, 303; P.L. 98-543, § 305(a); P.L. 100-322, § 302.)

(b)(1) The Administrator, under regulations which the Administrator shall prescribe, shall provide each eligible person the adaptive equipment deemed necessary to insure that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with such person's own safety and the safety of others and so as to satisfy the applicable standards of licensure established by the State of such person's residency or other proper licensing authority.

(2) In the case of any veteran (other than a person eligible for assistance under paragraph (1) of this subsection) who is entitled to compensation for ankylosis of one or both knees, or one or both hips, the Administrator, under the terms and conditions set forth in subsections (a), (c), and (d) of section 1903 of this title and under regulations which the Administrator shall prescribe, shall provide such adaptive equipment to overcome the disability resulting from such ankylosis as (A) is necessary to meet the applicable standards of licensure established by the State of such veteran's residency or other proper licensing authority for the operation of such veteran's automobile or other conveyance by such veteran, and (B) is determined to be necessary by the Chief Medical Director for the safe operation of such automobile or other conveyance by such veteran.

(Amended P.L. 91-666, 2(a); P.L. 97-66, §§ 302, 303.)

(c) In accordance with regulations which the Administrator shall prescribe, the Administrator shall (1) repair, replace, or reinstall adaptive equipment deemed necessary for the operation of an automobile or other conveyance acquired in accordance with the provisions of this chapter, and (2) provide, repair, replace, or reinstall such adaptive equipment for any automobile or other conveyance which an eligible person may previously or subsequently have acquired.

(Added P.L. 91-666, § 2(a); amended P.L. 93-538, § 3(3); P.L. 97-66, § 303.)

(d) If an eligible person cannot qualify to operate an automobile or other conveyance, the Administrator shall provide or assist in providing an automobile or other conveyance to such person, as provided in subsection (a) of this section, if the automobile or other conveyance is to be operated for the eligible person by another person.

(Amended P.L. 91-666, § 2(a).)

§ 1903. Limitations on assistance; special training courses

(a) No eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

(Amended P.L. 91-666, § 2(a).)

(b) Except as provided in subsection (d) of section 1902 of this title, no eligible person shall be provided an automobile or other conveyance under this chapter until it is established to the satisfaction of the Administrator, in accordance with regulations the Administrator shall prescribe, that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with such person's own safety and the safety of others and will satisfy the applicable standards of licensure to operate the automobile or other conveyance established by the State of such person's residency or other proper licensing authority.

(Amended P.L. 91-666, § 2(a); P.L. 97-66, § 303.)

(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Administrator determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Administrator may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Administrator. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Administrator shall prescribe.

(Added P.L. 91-666, § 2(a); amended P.L. 98-543, § 305(b).)

(d) Adaptive equipment shall not be provided under this chapter unless it conforms to minimum standards of safety and quality prescribed by the Administrator.

(Added P.L. 91-666, § 2(a).)

(e)(1) The Administrator shall provide, directly or by contract, for the conduct of special driver training courses at every hospital and, where appropriate, at regional offices and other medical facilities, of the Veterans' Administration to instruct such eligible person to operate the type of automobile or other conveyance such person wishes to obtain with assistance under this chapter, and may make such courses available to any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined by the Administrator to need the special training provided in such courses even though such veteran or member is not eligible for the assistance provided under this chapter.

(2) The Administrator is authorized to obtain insurance on automobiles and other conveyances (not owned by the Government) used in conducting the special driver training courses provided under this subsection and to obtain, at Government expense, personal liability and property damage insurance for all persons taking such courses without regard to whether such persons are taking the course on an in-patient or out-patient basis.

(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation.

(Added P.L. 93-538, § 4; amended P.L. 94-581, § 108(1), (2).)

§ 1904. Research and development

(a) In carrying out medical and prosthetic research under section 4101 of this title, the Administrator, through the Chief Medical Director, shall provide for special emphasis on the research and development of adaptive equipment and adapted conveyances (including vans) meeting standards of safety and quality prescribed under subsection (d) of section 1903, including support for the production and distribution of devices and conveyances so developed.

(Added P.L. 93-538, § 5; amended P.L. 94-581, § 205(b).)

(b) In carrying out subsection (a) of this section, the Administrator, through the Chief Medical Director, shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(Added P.L. 93-538, § 5; amended P.L. 95-602, § 122(f); P.L. 97-295, § 4(69) (A), (B).)

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
2000. Findings.
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2010A. Special unemployment study.

§ 2000. Findings

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment and Training.

(Added P.L. 97-306, § 301(a); amended P.L. 100-323, § 15(b).)

§ 2001. Definitions

For the purposes of this chapter—

(1) The term "special disabled veteran" has the same meaning provided in section 2011(1) of this title.

(2) The term "veteran of the Vietnam era" has the same meaning provided in section 2011(2) of this title.

(3) The term "disabled veteran" has the same meaning provided in section 2011(3) of this title.

(4) The term "eligible veteran" has the same meaning provided in section 2011(4) of this title.

(5) The term "eligible person" means—

(A) the spouse of any person who died of a service-connected disability,

(B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(C) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

(6) The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, and the Trust Territory of the Pacific Islands.

(7) The term "local employment service office" means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.

(8) The term "Secretary" means the Secretary of Labor.

(Added P.L. 92-540, § 502(a); amended P.L. 93-508, § 401(a); P.L. 96-466, §§ 503, 801(h); P.L. 100-323, §§ 3(b), 15(a).)

§ 2002. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies and regulations shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment and Training, established by section 2002A of this title, through a Veterans' Employment and Training Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans of the Vietnam era through existing programs, coordination and merger of programs and implementation of new programs.

(Amended P.L. 89-358, § 6(c)(1); P.L. 92-540, § 502(a); P.L. 93-508, § 401(b); P.L. 94-502, § 601(a); P.L. 96-466, § 504(a)(2); P.L. 97-306, § 302; P.L. 98-160, § 702; P.L. 100-323, § 15(b), (d).)

§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators

(a) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans. The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment and Training.

(Added P.L. 94-502, § 601(b)(1); amended P.L. 96-466, § 504(a)(4); P.L. 97-306, § 303; P.L. 98-160, § 702; P.L. 100-323, § 15(a), (b).)

(b) The Secretary shall—

(1) except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

(2) in order to make maximum use of available resources in meeting such needs, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Administrator with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-the-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (29 U.S.C. 1721 note);

(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employmemt service officials;

(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under section 2003A(a)(1) of this title, and (ii) local veterans' employment representatives assigned under section 2004(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem from attendance at the National Veterans' Employment and Training Services Institute established under section 2009 of this title;

(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5) of this subsection; and

(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of sections 2003A(a)(1) and 2004(a)(4), respectively, of this title.

(c)(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 2003A(a) and 2004(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 2003A or 2004 of this title.

(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State in order to carry out section 2003A or 2004 of this title, the Secretary shall take into account (A) the results of the evaluations, carried out pursuant to section 2003(c)(15) of this title, of the performance of local employment offices in the State, and (B) the monitoring carried out under this section.

(3) Each grant or contract by which funds are made available in a State shall contain a provision requiring the recipient of the funds to comply with the provisions of this chapter.

(d) The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under the Job Training Partnership Act and other federally funded employment and training programs.

(e)(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

(2) Each such Regional Administrator shall be responsible for—

(A) ensuring the promotion, operation, and implementation of all veterans' employment and training programs and services within the region;

(B) monitoring compliance with section 2012 of this title with respect to veterans' employment under Federal contracts within the region;

(C) protecting and advancing veterans' reemployment rights within the region; and

(D) coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving funds under grants from or contracts with the Department of Labor within the region.

(Added P.L. 94–502, § 601(b)(1); amended P.L. 96–466, § 504(a)(4); P.L. 97–306, § 303; P.L. 98–160, § 702; P.L. 100–323, § 2(a),(e)(3)(A), § 15(a)(2),(b)(1).)

§ 2003. Directors and Assistant Directors for Veterans' Employment and Training

(a) The Secretary shall assign to each State a representative of the Veterans' Employment Service to serve as the Director for Veterans' Employment and Training, and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one Assistant Director for Veterans' Employment and Training per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant Directors for Veterans' Employment and Training as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the Director for Veterans' Employment and Training to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to Directors for Veterans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(Added P.L. 97-306, § 304(a)(1); amended P.L. 100-323, § 15(a), (c).)

(b)(1)(A) Each Director for Veterans' Employment and Training and Assistant Director for Veterans' Employment and Training (i) shall, except as provided in subparagraph (B) of this paragraph, be a qualified veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (ii) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.

(2) Each Director for Veterans' Employment and Training and Assistant Director for Veterans' Employment and Training shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

(Added P.L. 97-306, § 304(a)(1); amended P.L. 100-323, §§ 5, 15(a), (c).)

(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the Director for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training shall—

(1)(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs, including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note);

(2) engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities and otherwise to promote the employment of eligible veterans and eligible persons;

(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(6) promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;

(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons;

(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

(10) working closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or

are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans;

(13) monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal Government and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide such preference or to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation;

(14) monitor, through disabled veterans' outreach program specialists and local veterans' employment representatives, the listing of vacant positions with State employment agencies by Federal agencies, and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; and

(15)(A) not less frequently than annually, conduct, subject to subclause (B) of this clause, an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate; and

(B) carry out such evaluations in the following order of priority: (I) offices that demonstrated less than satisfactory performance during either of the two previous program years, (II) offices with the largest number of veterans registered during the previous program year, and (III) other offices as resources permit.

(Amended P.L. 89-358, § 6(c)(1); P.L. 92-540, § 502(a); P.L. 93-508, § 401(c); P.L. 94-502, §§ 602, 606(1); P.L. 96-466, §§ 505, 801(i); P.L. 97-306, § 304(a)(1), (b), (c); P.L. 100-323, §§ 7(a), 15(c).)

§ 2003A. Disabled veterans' outreach program

(a)(1) The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialist shall be a qualified veteran. Preference shall be given in the appointment of such specialists to qualified disabled veterans of the Vietnam era. If the Secretary finds that a qualified disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other qualified disabled veterans. If the Secretary finds that no qualified disabled veteran is available for such appointment, such appointment may be given to any qualified veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

(2) Specialists appointed pursuant to this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

(Added P.L. 96-466, § 506(a); amended P.L. 97-306, § 305(b); P.L. 100-323, § 2(e)(1)(A).)

(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

(B) Services to other disabled veterans.

(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. The Secretary, after consulting the Administrator and the Director for Veterans' Employment and Training assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 612A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

(Added P.L. 96-466, § 506(a); amended P.L. 97-306, § 305(b); P.L. 100-323, § 15(c).)

(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

(4) Provision of appropriate assistance to community-based groups and organizations and appropriate grantees under other Federal and federally funded employment and training programs (including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.)) in providing services to such veterans.

(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs (including the program conducted under the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)) for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

(8) Development of outreach programs in cooperation with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.

(9) Provision of vocational guidance or vocational counseling services, or both, to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

(10) Provision of services as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note).

(Added P.L. 96–466, § 506(a); P.L. 97–306, § 305(c); amended P.L. 100–323, § 7(b).)

§ 2004. Local veterans' employment representatives

(a)(1) Beginning with fiscal year 1988, the total of the amount of funds made available for use in the States under section 2002A(b)(5)(A)(ii) of this title shall be sufficient to support the assignment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the assignment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support—

(A) the number of such representatives who were assigned in such State on January 1, 1987, for which funds were provided under this chapter, plus one additional such representative;

(B) the percentage of the 1,600 such representatives for which funding is not provided under clause (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment service offices in the United States who are registered for assistance with local employment service offices in such State, and (iii) the percentage of all full-service local employment service offices in the United States which are located in such State; and

(C) the State's administrative expenses associated with the assignment of the number of such representatives for which funding is allocated to the State under clauses (A) and (B) of this paragraph.

(2)(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, after consultation with the Director for Veterans' Employment and Training for the State, so that as nearly as practical (i) one full-time representative is assigned to each local employment service office at which at least 1,100 eligible veterans and eligible persons are registered for assistance, (ii) one additional full-time representative is assigned to each local employment service office for each 1,500 eligible veterans and eligible persons above 1,100 who are registered at such office for assistance, and (iii) one half-time representative is assigned to each local employment service office at which at least 350 but less than 1,100 eligible veterans and eligible persons are registered for assistance.

(B) In the case of a service delivery point (other than a local employment service office described in subparagraph (A) of this paragraph) at which employment services are offered under the Wagner-Peyser Act, the head of such service delivery point shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment service office during a program year if the individual—

(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

(4) In the assigning of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded

first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons.

(b) Local veterans' employment representatives shall—

(1) functionally supervise the providing of services to eligible veterans and eligible persons by the local employment service staff;

(2) maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (A) keeping them advised of eligible veterans and eligible persons available for employment and training, and (B) keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(3) provide directly, or facilitate the provision of, labor exchange services by local employment service staff to eligible veterans and eligible persons, including intake and assessment, counseling, testing, job-search assistance, and referral and placement;

(4) encourage employers and labor unions to employ eligible veterans and eligible persons and conduct on-the-job training and apprenticeship programs for such veterans and persons;

(5) promote and monitor the participation of veterans in federally funded employment and training programs, monitor the listing of vacant positions with State employment agencies by Federal agencies, and report to the Director for Veterans' Employment and Training for the State concerned any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation;

(6) monitor the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

(7) work closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, and cooperate with employers in identifying disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

(8) refer eligible veterans and eligible persons to training, supportive services, and educational opportunities, as appropriate;

(9) assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities;

(10) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need services available at the local employment service office;

(11) when requested by a Federal or State agency, a private employer, or a service-connected disabled veteran, assist such agency, employer, or veteran in identifying and acquiring prosthetic and sensory aids and devices needed to enhance the employability of disabled veterans; and

(12) facilitate the provision of guidance or counseling services, or both, to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note), are certified as eligible for participation under such Act.

(c) Each local veterans' employment representative shall be administratively responsible to the manager of the local employment service office and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.

(d) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State after consultation with the Director for Veterans' Employment and Training.

(Amended P.L. 89-358, § 6(c)(1); P.L. 92-540, § 502(a); P.L. 94-502, § 606(2); P.L. 100-323, § 3(a).)

§ 2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives

(a)(1) Subject to paragraph (2) of this subsection, each State employment agency shall develop and apply standards for the performance of disabled veterans' outreach program specialists appointed under section 2003A(a) of this title and local veterans' employment representatives assigned under section 2004(b) of this title.

(2)(A) Such standards shall be consistent with the duties and functions specified in section 2003A(b) of this title with respect to such specialists and section 2004(b)(1) through (12) of this title with respect to such representatives.

(B) In developing such standards, the State employment agency—

(i) shall take into account (I) the prototype developed under paragraph (3) of this subsection, and (II) the comments submitted under clause (ii) of this subparagraph by the Director for Veterans' Employment and Training for the State;

(ii) shall submit to such Director proposed standards for comment;

(iii) may take into account the State's personnel merit system requirements and other local circumstances and requirements; and

(iv) may request the assistance of such Director.

(C) Such standards shall include as one of the measures of the performance of such a specialist the extent to which the specialist, in serving as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note), facilitates rates of successful completion of training by veterans participating in programs of job training under the Act.

(3)(A) The Secretary, after consultation with State employment agencies or their representatives, or both, shall provide to such agencies a prototype of performance standards for use by such agencies in the development of performance standards under subsection (a)(1) of this section.

(B) Each Director for Veterans' Employment and Training—

(i) shall, upon the request of the State employment agency under paragraph (2)(B)(iv) of this subsection, provide appropriate assistance in the development of performance standards,

(ii) may, within 30 days after receiving proposed standards under paragraph (2)(B)(ii) of this subsection, provide comments on the proposed standards, particularly regarding the consistency of the proposed standards with such prototype.

(b)(1) Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training shall regularly monitor the performance of the specialists and representatives referred to in subsection (a)(1) of this section through the application of the standards required to be prescribed by subsection (a)(1).

(2) A Director for Veterans' Employment and Training for a State may submit to the head of the employment service in the State recommendations and comments in connection with each annual performance rating of such specialists and representatives in the State.

(Added P.L. 100–323, § 4(a).)

§ 2005. Cooperation of Federal agencies

(a) All Federal agencies shall furnish the Secretary such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

(Amended P.L. 89–358, § 6(c)(1); P.L. 92–540, § 502(a); P.L. 93–508, § 401(d); P.L. 94–502, § 606(3); P.L. 100-323, §§ 6(a), 15(a).)

(b) For the purpose of assisting the Secretary and the Administrator in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall provide, not more than 30 days after the date of the enactment of this subsection, the Secretary and the Administrator with any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve and shall provide, on the 15th day of each month thereafter, updated information regarding the list.

(Added P.L. 100–323, § 6(a).)

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary shall estimate the funds necessary for the proper and efficient administration of this chapter and chapters 42 and 43 of this title. Such estimated sum shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 2009 of this title and shall be approved by the Secretary only if the level of funding proposed is in compliance with such sections. Each budget submission with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A of this title and local veterans' employment representatives assigned under section 2004 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.

(Added P.L. 92-540, § 502(a); amended P.L. 93-508, § 401(e); P.L. 94-502, § 603; P.L. 97-306, § 306(a); P.L. 100-323, §§ 2(b), (e), 15(a).)

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(Added P.L. 92-540, § 502(a).)

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(Added P.L. 92-540, § 502(a).)

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections.

(Added P.L. 92-540, § 502(a); amended P.L. 97-306, § 306(b); P.L. 100-323, § 2(c).)

§ 2007. Administrative controls; annual report

(a) The Secretary shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially veterans of the Vietnam era and disabled veterans and each eligible person, who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employ-

ment prospects substantially, such as individual job development or employment counseling services.

(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary to be inadequate.

(Added P.L. 92-540, § 502(a); amended P.L. 93-508, § 401(f)(1); P.L. 94-502, § 604(1); P.L. 96-466, § 507(1); P.L. 100-323, § 15(a).)

(b) The Secretary shall establish definitive performance standards for determining compliance by the State public employment service agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section.

(Added P.L. 93-508, § 401(f)(2); amended P.L. 100-323, § 15(a).)

(c) Not later than Februry 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons.

The report shall include—

(1) specification, by State and by age group, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some, and the number who received no, reportable service;

(2) a comparison of the job placement rate for each of the categories of veterans and persons described in clause (1) of this subsection with the job placement rate for nonveterans of the same age groups registered for assistance with the public employment system in each State;

(3) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

(4) a report on activities carried out during the preceding program year under sections 2003A and 2004 of this title; and

(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of

such programs during such program year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action (including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 2003A(a)(2) of this title and the assignment of local veterans' employment representatives under section 2004(b) of this title and the allocation of funds for the support of such specialists and representatives) relating to veterans' employment and training as the Secretary considers appropriate.

(Added P.L. 92-540, § 502(a); amended P.L. 93-508, § 401(f)(3); P.L. 94-502, § 604(2), (3); P.L. 95-202, § 309(b); P.L. 96-466, § 507(2); P.L. 97-306, § 307; P.L. 100-323, § 2(d).)

§ 2008. Cooperation and coordination

(a) In carrying out the Secretary's responsibilities under this chapter, the Secretary shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

(Added P.L. 92-540, § 502(a); amended P.L. 94-502, § 606(4); P.L. 100-323, §§ 6(b), 15(a).)

(b) The Administrator shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Administrator under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).

(Added P.L. 100-323, § 6(b).)

§ 2009. National Veterans' Employment and Training Services Institute

(a) In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, counseling, placement, job-search, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Services Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, Regional Administrators for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

(b) In implementing this section, the Secretary shall, as the Secretary considers appropriate, provide, out of program funds designated for the Institute, training for Veterans' Employment and Training Service personnel, including travel expenses and per diem to attend the Institute.

(Added P.L. 97-306, § 308(a); amended P.L. 100-323, § 8(a).)

§ 2010. Secretary of Labor's Committee on Veterans' Employment

(a) There is established within the Department of Labor an advisory committee to be known as the "Secretary's Committee on Veterans' Employment". The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.

(Added P.L. 97-306, § 308(a).)

(b) Notwithstanding section 2002A(b) of this title, the committee shall be chaired by the Secretary. The Assistant Secretary of Labor for Veterans' Employment and Training shall serve as vice chairman of the committee. The committee shall include—

(1) representatives of—
  (A) the Administrator;
  (B) the Secretary of Defense;
  (C) the Secretary of Health and Human Services;
  (D) the Secretary of Education;
  (E) the Director of the Office of Personnel Management;
  (F) the Chairman of the Equal Employment Opportunity Commission;
  (G) the Administrator of the Small Business Administration;
  (H) the Postmaster General; and
  (I) any other agency of the Federal Government which has had its request to have a representative on the committee approved by the Secretary; and

(2) a representative of each of the chartered veterans' organizations having a national employment program.

(Added P.L. 97-306, § 308(a); amended P.L. 100-323, §§ 10, 15(a), (b).)

(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.

(Added P.L. 97-306, § 308(a).)

§ 2010A. Special unemployment study

(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.

(b) The first study under this section shall be completed not later than 180 days after the date of the enactment of this section.

(Added P.L. 100-323, § 9(a).)

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

Sec.
2011. Definitions.
2012. Veterans' employment emphasis under Federal contracts.
2013. Eligibility requirements for veterans under Federal employment and training programs.
2014. Employment within the Federal Government.

§ 2011. Definitions

As used in this chapter—

(1) The term "special disabled veteran" means—

(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans' Administration for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under section 1506 of this title to have a serious employment handicap; or

(B) a person who was discharged or released from active duty because of service-connected disability.

(Amended P.L. 98–223, § 206.)

(2)(A) Subject to subparagraph (B) of this paragraph, the term "veteran of the Vietnam era" means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

(3) The term "disabled veteran" means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term "eligible veteran" means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

(5) The term "department or agency" means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5 and the United States Postal Service and the Postal Rate Commission, and the term "department, agency, or instrumentality in the executive branch" includes the United States Postal Service and the Postal Rate Commission.

(Added P.L. 92-540, § 503(a); amended P.L. 94-502, § 607(1); P.L. 96-466, § 508; P.L. 97-306, § 309; P.L. 98-223, § 206.)

§ 2012. Veterans' employment emphasis under Federal contracts

(a) Any contract in the amount of $10,000 or more entered into by any department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall implement the provisions of this section by promulgating regulations which shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its suitable employment openings, and (2) each such local office shall give such veterans priority in referral to such employment openings.

(Added P.L. 92-540, § 503(a); amended P.L. 93-508, § 402(1), (2); P.L. 96-466, § 801(j).)

(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.

(Added P.L. 92-540, § 503(a); amended P.L. 93-508, § 402(3); P.L. 94-502, § 607(2); P.L. 95-520, § 6(a); P.L. 96-466, § 509.)

(c) The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.

(Added P.L. 94-502, § 605.)

(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary shall prescribe, report at least annually to the Secretary on—

(A) the number of employees in the work force of such contractor, by job category and hiring location, who are veterans of the Vietnam era or special disabled veterans; and

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are veterans of the Vietnam era or special disabled veterans.

(2) The Secretary shall ensure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to any requirement for the contractor to make any other report to the Secretary.

(Added P.L. 97–306, § 310(a).)

§ 2013. *Eligibility requirements* for veterans under Federal employment and training programs

Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and any amounts received by an eligible person under chapters 13 and 35 of such title, shall be disregarded in determining the needs or qualifications of participants in any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any employment or training program assisted under the Comprehensive Employment and Training Act, or any other employment or training (or related) program financed in whole or in part with Federal funds.

(Added P.L. 92–540, § 503(a); amended P.L. 96–466, § 801(k)(1).)

§ 2014. Employment within the Federal Government

(a)(1) It is the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for qualified disabled veterans and veterans of the Vietnam era.

(2) For the purposes of this section, the term "agency" means a department, agency, or instrumentality in the executive branch.

(Added P.L. 93–508, § 403; amended P.L. 98–543, § 211(a)(1).)

(b)(1) To further the policy stated in subsection (a) of this section, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

(A) such an appointment may be made up to and including the level GS-9 or its equivalent;

(B) a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment;

(C) a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran; and

(D) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) No veterans readjustment appointment may be made under authority of this subsection after December 31, 1989.

(Added P.L. 93-508, § 403; amended P.L. 95-202, § 308; P.L. 95-520, § 6(b)(1); P.L. 96-466, §§ 801(l)(1), (2); P.L. 97-72, § 202(a); P.L. 98-543, § 211(b); P.L. 99-576, § 332.)

(c) Each agency shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such agency as required by section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)), a separate specification of plans (in accordance with regulations which the Office of Personnel Management shall prescribe in consultation with the Administrator, the Secretary of Labor, and the Secretary of Health and Human Services, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(Added P.L. 93-508, § 403; amended P.L. 96-466, §§ 801(l)(1), (3); P.L. 97-295, § 4(95)(A); P.L. 98-543, § 211(c).)

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

(Added P.L. 93-508, § 403; amended P.L. 95-520, § 6(b)(2); P.L. 96-466, § 801(l)(1); P.L. 98-543, § 211(d).)

(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency:

(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

(A) shall be shown for all veterans; and

(B) shall be shown separately (i) for veterans of the Vietnam era who are entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.

(Added P.L. 93-508, § 403; amended P.L. 96-466, §§ 801(l)(1), (4); P.L. 98-543, § 211(d).)

(f) Notwithstanding section 2011 of this title, the terms "veteran" and "disabled veteran" as used in subsection (a) of this section shall have the meaning provided for under generally applicable civil service law and regulations.

(Added P.L. 93-508, § 403; amended P.L. 95-520, § 6(b)(3).)

(g) To further the policy stated in subsection (a) of this section, the Administrator may give preference to qualified special disabled veterans and qualified veterans of the Vietnam era for employment in the Veterans' Administration as veterans' benefits counselors and veterans' claims examiners and in positions to provide the outreach services required under section 241 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 243 of this title, or to provide readjustment counseling under section 612A of this title to veterans of the Vietnam era.

(Added P.L. 96-466, § 510.)

CHAPTER 43—VETERANS' REEMPLOYMENT RIGHTS

Sec.
2021. Right to reemployment of inducted persons; benefits protected.
2022. Enforcement procedures.
2023. Reemployment by the United States, territory, possession, or the District of Columbia.
2024. Rights of persons who enlist or are called to active duty; Reserves.
2025. Assistance in obtaining reemployment.
2026. Prior rights for reemployment.

§ 2021. Right to reemployment of inducted persons; benefits protected

(a) In the case of any person who is inducted into the Armed Forces of the United States under the Military Selective Service Act (or under any prior or subsequent corresponding law) for training and service and who leaves a position (other than a temporary position) in the employ of any employer in order to perform such training and service, and (1) receives a certificate described in section 9(a) of the Military Selective Service Act (relating to the satisfactory completion of military service), and (2) makes application for reemployment within ninety days after such person is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position, by reason of disability sustained during such service, but qualified to perform the duties of any other position in the employ of the employer, be offered employment and, if such person so requests, be employed in such other position the duties of which such person is qualified to perform as will provide such person like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such person's case;

(B) if such position was in the employ of a State, or political subdivision thereof, or a private employer, such person shall—

(i) if still qualified to perform the duties of such position, be restored by such employer or the employer's successor in interest to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service, but qualified to perform the duties of any other position in the employ of such employer or the employer's successor in interest, be offered employment and, if such person so requests, be employed by such employer or the employer's successor in interest in such other position the duties of which such person is qualified to perform as will provide such person like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such person's case,

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so. Nothing in this chapter shall excuse noncompliance with any statute or ordinance of a State or political subdivision thereof establishing greater or additional rights or protections than the rights and protections established pursuant to this chapter.

(Added P.L. 93–508, § 404; amended P.L. 94–502, § 608(1).)

(b)(1) Any person who is restored to or employed in a position in accordance with the provisions of clause (A) or (B) of subsection (a) of this section shall be considered as having been on furlough or leave of absence during such person's period of training and service in the Armed Forces, shall be so restored or reemployed without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration or reemployment.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to or employed in a position in accordance with the provisions of clause (A) or (B) of subsection (a) of this section should be so restored or reemployed in such manner as to give such person such status in the person's employment as the person would have enjoyed if such person had continued in such employment continuously from the time of such person's entering the Armed Forces until the time of such person's restoration to such employment, or reemployment.

(3) Any person who seeks or holds a position described in clause (A) or (B) of subsection (a) of this section shall not be denied hiring, retention in employment, or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces.

(Added P.L. 93–508, § 404; amended P.L. 94–502, § 608(2); P.L. 99–576, § 331.)

(c) The rights granted by subsections (a) and (b) of this section to persons who left the employ of a State or political subdivision thereof and were inducted into the Armed Forces shall not diminish any rights such persons may have pursuant to any statute or ordinance of such State or political subdivision establishing greater or additional rights or protections.

(Added P.L. 93–508, § 404.)

§ 2022. Enforcement procedures

If any employer, who is a private employer or a State or political subdivision thereof, fails or refuses to comply with the provisions of section 2021(a), (b)(1), or (b)(3), or 2024 of this title, the district court of the United States for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, shall have the power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. Any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits provided for in such provisions. Upon application to the United States attorney or comparable official for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, by any person claiming to be entitled to the benefits provided for in such provisions, such United States attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions. No fees or court costs shall be taxed against any person who may apply for such benefits. In any such action only the employer shall be deemed a necessary party respondent. No State statute of limitations shall apply to any proceedings under this chapter.

(Added P.L. 93-508, § 404; amended P.L. 97-295, § 4(71); P.L. 98-620, § 402(36).)

§ 2023. Reemployment by the United States, territory, possession, or the District of Columbia

(a) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a) and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Government or by any territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored or reemployed by such agency or the successor to its functions, or by such territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Government or by the District of Columbia, the Director of the Office of Personnel Management finds that—

(1) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(2) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia;

the Director shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the government of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Director determines that there is such a position, such person shall be offered employment and, if such person so requests, be employed in such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Director is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to or employed in positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be reemployed under the last sentence of subsection (b) of this section. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules, regulations, and orders issued by the Director pursuant to this subsection. The Director is authorized and directed when the Director finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by such person through other employment, unemployment compensation, or readjustment allowances. Any such compensation ordered to be paid by the Director shall be in addition to and shall not be deemed to diminish any of the benefits provided for in such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this chapter, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government (including the United States Postal Service and the Postal Rate Commission).

(Added P.L. 93-508, § 404; amended P.L. 97-295, § 4(72)(A), (B), (C).)

(b) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a) of this title, and who was employed, immediately before entering the Armed Forces, in the legislative branch of the Government, shall be so restored or employed by the officer who appointed such person to the position which such person held immediately before entering the Armed Forces. In any case in which it is not possible for any such person to be restored to or employed in a position in the legislative branch of the Government and such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(c) of title 5, the Director of the Office of Personnel Management shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Director determines that there is such a position, such person shall be offered employment and, if such person so requests, be employed in such position by the agency in which such position exists.

(Added P.L. 93–508, § 404; amended P.L. 97–295, § 4(72)(A), (D).)

(c) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a) of this title and who was employed, immediately before entering the Armed Forces, in the judicial branch of the Government, shall be so restored or reemployed by the officer who appointed such person to the position which such person held immediately before entering the Armed Forces.

(Added P.L. 93–508, § 404; amended P.L. 97–295, § 4(72)(D).)

§ 2024. Rights of persons who enlist or are called to active duty; Reserves

(a) Any person who, after entering the employment on the basis of which such person claims restoration or reemployment, enlists in the Armed Forces of the United States (other than in a Reserve component) shall be entitled upon release from service under honorable conditions to all of the reemployment rights and other benefits provided for by this section in the case of persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), if the total of such person's service performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any service, additional or otherwise, performed by such person after August 1, 1961, does not exceed five years, and if the service in excess of four years after August 1, 1961, is at the request and for the convenience of the Federal Government (plus in each case any period of additional service imposed pursuant to law).

(Added P.L. 93–508, § 404.)

(b)(1) Any person who, after entering the employment on the basis of which such person claims restoration or reemployment, enters upon active duty (other than for the purpose of determining physical fitness and other than for training), whether or not voluntarily, in the Armed Forces of the United States or the Public Health Service in response to an order or call to active duty shall, upon such person's relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided for by this chapter in the case of persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), if the total of such active duty performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any such active duty, additional or otherwise, performed after August 1, 1961, does not exceed four years (plus in each case any additional period in which such person was unable to obtain orders relieving such person from active duty).

(2) Any member of a Reserve component of the Armed Forces of the United States who voluntarily or involuntarily enters upon active duty (other than for the purpose of determining physical fitness and other than for training) or whose active duty is voluntarily or involuntarily extended during a period when the President is authorized to order units of the Ready Reserve or members of a Reserve component to active duty shall have the service limitation governing eligibility for reemployment rights under subsection (b)(1) of this section extended by such member's period of such active duty, but not to exceed that period of active duty to which the President is authorized to order units of the Ready Reserve or members of a Reserve component. With respect to a member who voluntarily enters upon active duty or whose active duty is voluntarily extended, the provisions of this subsection shall apply only when such additional active duty is at the request and for the convenience of the Federal Government.

(Added P.L. 93-508, § 404.)

(c) Any member of a Reserve component of the Armed Forces of the United States who is ordered to an initial period of active duty for training of not less than twelve consecutive weeks shall, upon application for reemployment within thirty-one days after (1) such member's release from such active duty for training after satisfactory service, or (2) such member's discharge from hospitalization incident to such active duty for training, or one year after such member's scheduled release from such training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this chapter for persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), except that (A) any person restored to or employed in a position in accordance with the provisions of this subsection shall not be discharged from such position without cause within six months after that restoration, and (B) no reemployment rights granted by this subsection shall entitle any person to retention, preference, or displacement rights over any veteran with a superior claim under those provisions of title 5 relating to veterans and other preference eligibles.

(Added P.L. 93-508, § 404; amended P.L. 96-466, § 511(a).)

(d) Any employee not covered by subsection (c) of this section who holds a position described in clause (A) or (B) of section 2021(a) shall upon request be granted a leave of absence by such person's employer for the period required to perform active duty for training or inactive duty training in the Armed Forces of the United States. Upon such employee's release from a period of such active duty for training or inactive duty training, or upon such employee's discharge from hospitalization incident to that training, such employee shall be permitted to return to such employee's position with such seniority, status, pay, and vacation as such employee would have had if such employee had not been absent for such purposes. Such employee shall report for work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following such employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at such next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If such an employee is hospitalized incident to active duty for training or inactive duty training, such employee shall be required to report for work at the beginning of the next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or within one year after such employee's release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this subsection is not qualified to perform the duties of such employee's position by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or such employer's successor in interest, such employee shall be offered employment and, if such person so requests, be employed by that employer or such employer's successor in interest in such other position the duties of which such employee is qualified to perform as will provide such employee like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such employee's case.

(Added P.L. 93-508, § 404; amended P.L. 94-502, § 608(3).)

(e) Any employee not covered by subsection (c) of this section who holds a position described in clause (A) or (B) of section 2021(a) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering, or determining, by a preinduction or other examination, physical fitness to enter the Armed Forces. Upon such employee's rejection, upon completion of such employee's preinduction or other examination, or upon such employee's discharge from hospitalization incident to such rejection or examination, such employee shall be permitted to return to such employee's position in accordance with the provisions of subsection (d) of this section.

(Added P.L. 93-508, § 404.)

(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 502, 503, 504, or 505 of title 32 is considered active duty for training. For the purposes of subsection (d) of this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, or 1002 of title 37 is considered inactive duty training.

(Added P.L. 93-508, § 404; amended P.L. 96-466, § 511(b).)

(g) Any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty for not more than

90 days under section 673b of title 10, United States Code, whether or not voluntarily, shall be entitled to all reemployment rights and benefits provided under subsection (c) of this section for persons ordered to an initial period of active duty for training of not less than twelve consecutive weeks; and shall have the service limitation governing eligibility for reemployment rights under subsections (a) and (b)(1) of this section extended by the period of such active duty.

(Added P.L. 94-286, § 2; amended P.L. 96-466, § 511(a); P.L. 99-576, § 701(60).)

§ 2025. Assistance in obtaining reemployment

The Secretary of Labor, through the Office of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

(Added P.L. 93-508, § 404.)

§ 2026. Prior rights for reemployment

In any case in which two or more persons who are entitled to be restored to or employed in a position under the provisions of this chapter or of any other law relating to similar reemployment benefits left the same position in order to enter the Armed Forces, the person who left such position first shall have the prior right to be restored thereto or reemployed on the basis thereof, without prejudice to the reemployment rights of the other person or persons to be restored or reemployed.

(Added P.L. 93-508, § 404.)

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

SUBCHAPTER I—CLAIMS

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SUBCHAPTER I—CLAIMS

§ 3001. Claims and forms

(a) A specific claim in the form prescribed by the Administrator (or jointly with the Secretary of Health and Human Services, as prescribed by section 3005 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Veterans' Administration.

(Amended P.L. 97-295, § 4(95)(A).)

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(Amended P.L. 99-576, § 701(61).)

§ 3002. Application forms furnished upon request

Upon request made in person or in writing by any person claiming or applying for benefits under the laws administered by the Veterans' Administration, the Administrator shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing such claim.

§ 3003. Incomplete applications

(a) If a claimant's application for benefits under the laws administered by the Veterans' Administration is incomplete, the Administrator shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application.

(b) This section shall not apply to any application or claim for Government life insurance benefits.

(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.

(Added P.L. 99-570, § 11007(a).)

[§ 3004. Repealed, P.L. 87-825, § 5(a).]

§ 3005. Joint applications for social security and dependency and indemnity compensation

The Administrator and the Secretary of Health and Human Services shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.); and when an application on such form has been filed with either the Administrator or the Secretary of Health and Human Services, it shall be deemed to be an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). A copy of each such application filed with the Administrator, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Administrator with such application, and which may be needed by the Secretary in connection therewith, shall be transmitted by the Administrator to the Secretary; and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator. The preceding sentence shall not prevent the Secretary and the Administrator from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.), respectively.

(Amended P.L. 97-295, § 4(95)(A); P.L. 98-160, § 702.)

§ 3006. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Administrator as the Administrator may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

(Added P.L. 94-432, § 403; amended P.L. 99-576, § 701(62).)

§ 3007. Burden of proof; benefit of the doubt

(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 3006 of this title.

(b) When, after consideration of all evidence and material of record in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.

(Added P.L. 100-687, § 103(a).)

§ 3008. Reopening disallowed claims

If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Administrator shall reopen the claim and review the former disposition of the claim.

(Added P.L. 100-687, § 103(a).)

§ 3009. Independent medical opinions

(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(c) The Administrator shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Administrator.

(Added P.L. 100-687, § 103(a).)

SUBCHAPTER II—EFFECTIVE DATES

§ 3010. Effective dates of awards

(a) Unless specifically provided otherwise in this chapter, the effective date of an award based on an original claim, a claim reopened after final adjudication, or a claim for increase, of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

(Amended P.L. 87-825, § 1.)

(b)(1) The effective date of an award of disability compensation to a veteran shall be the day following the date of discharge or release if application therefor is received within one year from such date of discharge or release.

(2) The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received within one year from such date.

(3)(A) The effective date of an award of disability pension to a veteran described in subparagraph (B) of this paragraph shall be the date of application or the date on which the veteran became permanently and totally disabled, if the veteran applies for a retroactive award within one year from such date, whichever is to the advantage of the veteran.

(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.

(Amended P.L. 93-177, § 6(a); P.L. 94-71, § 104; P.L. 98-369, § 2501(a)(1).)

(c) The effective date of an award of disability compensation by reason of section 351 of this title shall be the date such injury or aggravation was suffered if an application therefor is received within one year from such date.

(Added P.L. 87-825, § 1.)

(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.

(Added P.L. 87-825, § 1; amended P.L. 98-369, § 2501(a)(1).)

(e)(1) Except as provided in paragraph (2) of this subsection, the effective date of an award of dependency and indemnity compensation to a child shall be the first day of the month in which the child's entitlement arose if application therefor is received within one year from such date.

(2) In the case of a child who is eighteen years of age or over and who immediately before becoming eighteen years of age was counted under section 411(b) of this title in determining the amount of the dependency and indemnity compensation of a surviving spouse, the effective date of an award of dependency and indemnity compensation to such child shall be the date the child attains the age of eighteen years if application therefor is received within one year from such date.

(Amended P.L. 87-825, § 1; P.L. 97-66, § 204(b).)

(f) An award of additional compensation on account of dependents based on the establishment of a disability rating in the percentage evaluation specified by law for the purpose shall be payable from the effective date of such rating; but only if proof of dependents is received within one year from the date of notification of such rating action.

(Added P.L. 87-825, § 1.)

(g) Subject to the provisions of section 3001 of this title, where compensation, dependency and indemnity compensation, or pension is awarded or increased pursuant to any Act or administrative issue, the effective date of such award or increase shall be fixed in accordance with the facts found but shall not be earlier than the effective date of the Act or administrative issue. In no event shall such award or increase be retroactive for more than one year from the date of application therefor or the date of administrative determination of entitlement, whichever is earlier.

(Added P.L. 87-825, § 1.)

(h) Where an award of pension has been deferred or pension has been awarded at a rate based on anticipated income for a year and the claimant later establishes that income for that year was at a rate warranting entitlement or increased entitlement, the effective date of such entitlement or increase shall be fixed in accordance with the facts found if satisfactory evidence is received before the expiration of the next calendar year.

(Added P.L. 87-825, § 1.)

(i) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date such disallowed claim was filed, whichever date is the later, but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim. This subsection shall not apply to any application or claim for Government life insurance benefits.

(Added P.L. 87-825, § 1.)

(j) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the first day of the month fixed by the Secretary as the month of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled to receive an allowance, allotment, or service pay of the deceased.

(Added P.L. 87-825, § 1.)

(k) The effective date of the award of benefits to a surviving spouse or of an award or increase of benefits based on recognition of a child, upon annulment of a marriage shall be the date the judicial decree of annulment becomes final if a claim therefor is filed within one year from the date the judicial decree of annulment becomes final; in all other cases the effective date shall be the date the claim is filed.

(Added P.L. 87-674, § 3; amended P.L. 87-825, § 1; P.L. 98-160, § 703.)

(l) The effective date of an award of benefits to a surviving spouse based upon a termination of a remarriage by death or divorce, or of an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce, shall be the date of death or the date the judicial decree or divorce becomes final, if an application therefor is received within one year from such termination.

(Added P.L. 91-376, § 7; amended P.L. 93-527, § 9(b); P.L. 98-160, § 703.)

(m) The effective date of an award of benefits to a surviving spouse based upon termination of actions described in section 103(d)(3) of this title shall not be earlier than the date of receipt of application therefor filed after termination of such actions and after December 31, 1970.

(Added P.L. 91-376, § 7; amended P.L. 98-160, § 703; P.L. 98-223, § 213.)

(n) The effective date of the award of any benefit or any increase therein by reason of marriage or the birth or adoption of a child shall be the date of such event if proof of such event is received by the Veterans' Administration within one year from the date of the marriage, birth, or adoption.

(Added P.L. 91-584, § 13.)

§ 3011. Commencement of period of payment

(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

(c)(1) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

(2) In the case of a temporary increase in compensation for hospitalization or treatment where such hospitalization or treatment commences and terminates within the same calendar month, the period of payment shall commence on the first day of such month.

(Amended P.L. 98-223, § 113.)

(d) For the purposes of this section, the term "award or increased award" means—

(1) an original or reopened award; or

(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.

(Added P.L. 97-253, § 401(a)(1).)

§ 3012. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at the payee's last address of record) of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(Added P.L. 87-825, § 2; amended P.L. 89-730, § 3; P.L. 90-275, § 5; P.L. 92-198, § 3; P.L. 94-433, § 402(1), (2); P.L. 95-588, § 303; P.L. 97-253, § 402(a); P.L. 99-576, § 701(64).)

(c) The effective date of a discontinuance under section 3203(b)(1)(A) of this title of pension, compensation, or emergency officers' retirement pay by reason of hospital treatment or institutional or domiciliary care shall be the last day of the first month of such treatment or care during which the value of the veteran's estate, as determined under such section, equals or exceeds $1,500.

(Added P.L. 99-576, § 503.)

§ 3013. Effective dates of educational benefits

Effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(Amended P.L. 89-358, § 4(p); P.L. 99-576, § 321(10); P.L. 100-322, § 323.)

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 3020. Payment of benefits; delivery

(a) Monetary benefits under laws administered by the Veterans' Administration shall be paid by checks drawn, pursuant to certification by the Administrator, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Administrator may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at the payee's last known address and, if the payee has moved and filed a regular change of address notice with the United States Postal Service, shall be forwarded to the payee. The envelope or cover of each such checks shall bear on the face thereof the following notice: "POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known."

(Amended P.L. 97-295, § 4(73); P.L. 99-576, § 701(65).)

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if such person has died or in the case of a surviving spouse, if the postal employee believes that the surviving spouse has remarried (unless the mail is addressed to the surviving spouse in the name the surviving spouse has acquired by the remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Administrator deems it necessary to protect the United States against loss.

(Amended P.L. 99-576, § 701(65).)

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Administrator certifies such benefits for payment, monetary benefits under laws administered by the Veterans' Administration may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Administrator to be in the best interest of such payees and the management of monetary benefits programs by the Veterans' Administration.

(Added P.L. 95-117, § 402(a).)

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Administrator shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(Added P.L. 95-117, § 402(a).)

(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.

(Added P.L. 99-570, § 11007(a).)

§ 3021. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Veterans' Administration to which an individual was entitled at death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 3022 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed one year, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Administrator;

(2) Upon the death of a veteran, to the living person first listed below:

(A) The veteran's spouse;

(B) The veteran's children (in equal shares);

(C) The veteran's dependent parents (in equal shares);

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran;

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension; and

(5) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(Amended P.L. 92-328, § 105(b); P.L. 97-258, § 3(k); P.L. 98-160, § 703; P.L. 99-576, § 701(66).)

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

§ 3022. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled, unless negotiated by the payee or the duly appointed representative of the payee's estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 3021 of this title, without regard to section 3021(c) of this title. Any amount not paid in the manner provided in section 3021 of this title shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee unless the estate will escheat.

(Amended P.L. 99-576, § 701(67).)

§ 3023. Rounding down of pension rates

The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the nearest dollar.

(Added P.L. 97-253, § 403(a)(1).)

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

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§ 3101. Nonassignability and exempt status of benefits

(a) Payments of benefits due or to become due under any law administered by the Veterans' Administration shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity. For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving a benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(Amended P.L. 94-502, § 701; P.L. 99-576, § 701(68).)

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or the beneficiary's estate; or (2) any beneficiary or the beneficiary's estate except amounts due the United States by such beneficiary or the beneficiary's estate by reason of overpayments or illegal payments made under such laws to such beneficiary or the beneficiary's estate or to the beneficiary's dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(Amended P.L. 99-576, § 701(68).)

(c)(1) Notwithstanding any other provision of this section, the Administrator may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Veterans' Administration the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of chapter 73 of title 10.

(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has determined that the uncollected portion of such amount is not collectible from amounts payable by the Secretary to the veteran or that the veteran is not receiving any payment from the Secretary, the Secretary may request the Administrator to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

(B) For the purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

(i) the term "records of the agency" shall be considered to refer to the records of the department of the Secretary concerned; and

(ii) the term "agency" in clauses (3) and (4) shall be considered to refer to such department.

(4) Funds collected under this subsection shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10.

(Added P.L. 99-576, § 504.)

(d) Notwithstanding subsection (a) of this section, payments of benefits under laws administered by the Veterans' Administration shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (26 U.S.C. 6331 et seq.).

(Amended P.L. 97–295, § 4(74); P.L. 99–576, § 504.)

(e) In the case of a person who—

(1) has been determined to be eligible to receive pension or compensation under laws administered by the Veterans' Administration but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

(2) files a waiver of such pay in accordance with section 3105 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Veterans' Administration of such person's eligibility for such pension or compensation.

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.

(Added P.L. 95–479, § 301; amended P.L. 99–576, § 504.)

§ 3102. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payments or overpayments (or any interest thereon) of any benefits under any of the laws administered by the Veterans' Administration whenever the Administrator determines that recovery would be against equity and good conscience, if an application for relief is made within 180 days from the date of notification of the indebtedness by the Administrator to the payee, or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date.

(Amended P.L. 92–328, § 202(a); P.L. 96–466, § 605(c)(3)(A); P.L. 97–306, § 407(a).)

(b) With respect to any loan guaranteed, insured, or made under chapter 37 of this title, the Administrator may waive payment of an indebtedness to the Veterans' Administration by the veteran (as defined in sections 101 and 1801), or the veteran's spouse, following default and loss of the property, where the Administrator determines that collection of such indebtedness would be against equity and good conscience.

(Amended P.L. 92–328, § 202(a); P.L. 99–576, § 701(69).)

(c) The Administrator may not exercise the Administrator's authority under subsection (a) or (b) of this section to waive recovery of any payment or the collection of any indebtedness (or any interest thereon) if, in the Administrator's opinion, there exists in connection with the claim for such waiver an indication of fraud, misrepresentation, material fault, or lack of good faith on the part of the person or persons having an interest in obtaining a waiver of such recovery or the collection of such indebtedness (or any interest thereon).

(Amended P.L. 92-328, § 202(a); P.L. 96-466, § 605(c)(3)(B); P.L. 99-576, § 701(69).)

(d) No certifying or disbursing officer shall be liable for any amount paid to any person where the recovery of such amount is waived under subsection (a) or (b).

(Added P.L. 92-328, § 202(a).)

(e) Where the recovery of a payment or overpayment made from the National Service Life Insurance Fund or United States Government Life Insurance Fund is waived under this section, the fund from which the payment was made shall be reimbursed from the National Service Life Insurance appropriation or the military and naval insurance appropriation, as applicable.

(Added P.L. 92-328, § 202(a).)

§ 3103. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that such person was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence, or of an officer by the acceptance of such officer's resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed, notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10.

(Amended P.L. 95-126, § 1(a)(1); P.L. 99-576, § 701(70).)

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Administrator that, at the time of the commission of an offense leading to a person's court-martial, discharge, or resignation, that person was insane, such person shall not be precluded from benefits under laws administered by the Veterans' Administration based upon the period of service from which such person was separated.

(Amended P.L. 99-576, § 701(70).)

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on the individual's own application or solicitation as an alien. No individual shall be considered as having been discharged on the individual's own application or solicitation as an alien in the absence of affirmative evidence establishing that the individual was so discharged.

(Amended P.L. 86-113; P.L. 99-576, § 701(70).)

(d) This section shall not apply to any war-risk insurance, Government (converted) or National Service Life Insurance policy.

(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

(2) Notwithstanding any other provision of law—

(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative before October 9, 1978, in any case where a general or honorable discharge has been awarded before October 9, 1977, under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after October 8, 1977.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of the right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.

(Added P.L. 95-126, § 1(a)(2); amended P.L. 97-295, § 4(75); P.L. 99-576, § 701(70).)

§ 3103A. Minimum active-duty service requirement

(a) Notwithstanding any other provision of law, any requirements for eligibility for or entitlement to any benefit under this title or any other law administered by the Veterans' Administration that are based on the length of active duty served by a person who initially enters such service after September 7, 1980, shall be exclusively as prescribed in this title.

(Added P.L. 97-66, § 604(a)(1).)

(b)(1) Except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty after October 16, 1981, and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to a person who is discharged or released from active duty under section 1171 or 1173 of title 10;

(B) to a person who is discharged or released from active duty for a disability incurred or aggravated in line of duty;

(C) to a person who has a disability that the Administrator has determined to be compensable under chapter 11 of this title;

(D) to the provision of a benefit for or in connection with a service-connected disability, condition, or death;

(E) to benefits under chapter 19 of this title; or

(F) to benefits under chapter 30 of this title by reason of—

(i) a discharge or release from active duty for the convenience of the Government, as described in sections 1411(a)(1)(A)(ii)(II) and 1412(b)(1)(A)(iv) of this title;

(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Administrator determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(ii) of this title; or

(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(v) of this title.

(Added P.L. 97-66, § 604(a)(1); amended P.L. 97-306, § 408(a)(1); P.L. 99-576, § 321(11); P.L. 100-689, § 102(b)(3).)

(c)(1) Except as provided in paragraph (2) of this subsection, no dependent or survivor of a person as to whom subsection (b) of this section requires the denial of benefits shall, by reason of such person's period of active duty, be provided with any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection does not apply to benefits under chapters 19 and 37 of this title.

(Added P.L. 97-66, § 604(a)(1).)

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Veterans' Administration), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title.

(Added P.L. 97-306, § 408(a)(2).)

(e) For the purposes of this section, the term "benefit" includes a right or privilege, but does not include a refund of a participant's contributions to the educational benefits program provided by chapter 32 of this title.

(Added P.L. 97-66, § 604(a)(1).)

(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.

(Added P.L. 97-306, § 408(a)(3).)

§ 3104. Prohibition against duplication of benefits

(a)(1) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on such person's own service or concurrently to any person based on the service of any other person.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and of section 3105 of this title, pension under section 521 or 541 of this title may be paid to a person entitled to receive retired or retirement pay described in section 3105 of this title concurrently with such person's receipt of such retired or retirement pay if the annual amount of such retired or retirement pay is counted as annual income for the purposes of chapter 15 of this title.

(Amended P.L. 88-664, § 9; P.L. 96-385, § 503(a); P.L. 99-576, § 701(71).)

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection and in section 521(i) of this title, the receipt of pension, compensation, or dependency and indemnity compensation by a surviving spouse, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of such person's own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

(2) Benefits other than insurance under laws administered by the Veterans' Administration may not be paid or furnished to or on account of any child by reason of the death of more than one parent in the same parental line; however, the child may elect one or more times to receive benefits by reason of the death of any one of such parents.

(3) Benefits other than insurance under laws administered by the Veterans' Administration may not be paid to any person by reason of the death of more than one person to whom such person was married; however, the person may elect one or more times to receive benefits by reason of the death of any one spouse.

(Amended P.L. 86-495, § 1; P.L. 91-376, § 6; P.L. 95-588, § 304; P.L. 99-576, § 701(71).)

(c) Pension, compensation, or retirement pay on account of any person's own service shall not be paid to such person for any period for which such person receives active service pay.[1]

(Amended P.L. 99-576, § 701(71).)

§ 3105. Waiver of retired pay

Any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration if such person were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of such person's retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Veterans' Administration of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

(Amended P.L. 91-621, § 6(a)(3); P.L. 99-576, § 701(72).)

§ 3106. Renouncement of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Veterans' Administration may renounce the right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(Amended P.L. 99-576, § 701(73).)

(b) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

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[1] See related provisions of 10 U.S.C. 684 authorizing reservists to waive cited benefits.

§ 3107. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers' retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of the veteran's spouse, children, or dependent parents; and

(2) if the veteran is not living with the veteran's spouse, or if the veteran's children are not in the custody of the veteran, be apportioned as may be prescribed by the Administrator.

(b) Where any of the children of a deceased veteran are not in the the custody of the veteran's surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned as prescribed by the Administrator.

(c) If a veteran is not living with the veteran's spouse, or if any of the veteran's children are not in the custody of the veteran, any subsistence allowance payable to the veteran under chapter 31 of this title or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title may be apportioned as may be prescribed by the Administrator.

(Amended P.L. 92-540, § 505; P.L. 98-160, § 703.)

§ 3108. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Veterans' Administration is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Administrator showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 3109 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Administrator, in the Administrator's discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such alien were dead.

(Amended P.L. 99-576, § 701(74).)

§ 3109. Payment of certain withheld benefits

(a) Any person who, but for section 3108 of this title, was entitled to benefits under any of the laws administered by the Veterans' Administration, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 3329 and 3330 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 3108, or withheld (including the amount of any checks covered on such person's account into the Treasury as miscellaneous receipts together with any amount to such person's credit in the special-deposit account) pursuant to sections 3329 and 3330 of title 31. The Administrator shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Administrator, shall reimburse the appropriations of the Veterans' Administration from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(Amended P.L. 97-258, § 3(k); P.L. 99-576, § 701(75).)

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because such person was a citizen or subject of Germany or Japan residing in Germany or Japan.

(Amended P.L. 99-576, § 701(75).)

§ 3110. Payment of benefits for month of death

If, in accordance with the provisions of section 3010(d) of this title, a surviving spouse is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

(Added P.L. 87-825, § 4(a); amended P.L. 98-160, § 703.)

§ 3111. Prohibition of certain benefit payments

There shall be no payment of dependency and indemnity compensation, death compensation, or death pension which, because of a widow's relationship with another man before enactment of Public Law 87-674, would not have been payable by the Veterans' Administration under the standard for determining remarriage applied by that agency before said enactment.

(Added P.L. 91-376, § 8(b).)

§ 3112. Annual adjustment of certain benefit rates

(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Administrator shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 521, 541, and 542 of this title and the rate of increased pension paid under such sections 521 and 541 on account of children, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

(Added P.L. 95-588, § 305(a); amended P.L. 97-295, § 4(76)(A), (B).)

(b)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Administrator shall, effective on the date of such increase in benefit amounts, increase the maximum monthly rates of dependency and indemnity compensation for parents payable under subsections (b), (c), and (d), and the monthly rate provided in subsection (g), of section 415 of this title and the annual income limitations prescribed in subsections (b)(3), (c)(3), and (d)(3) of such section, as such rates and limitations were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

(2)(A) Whenever there is an increase under paragraph (1) of this subsection in such rates and annual income limitations, the Administrator shall, effective on the date of such increase in such rates and limitations, adjust (as provided in subparagraph (B) of this paragraph) the rates of dependency and indemnity compensation payable under subsection (b)(1) or (c)(1) of section 415 of this title to any parent whose annual income is more than $800 but not more than the annual income limitation in effect under subsection (b)(3) or (c)(3) of such section, as appropriate, and adjust the rates of such compensation payable under subsection (d)(1) of such section to any parent whose annual income is more than $1,000 but not more than the annual income limitation in effect under subsection (d)(3) of such section.

(B) The adjustment in rates of dependency and indemnity compensation referred to in subparagraph (A) of this paragraph shall be made by the Administrator in accordance with regulations which the Administrator shall prescribe.

(Added P.L. 95-588, § 305(a); amended P.L. 97-295, § 4(76)(a), (b), (c).)

(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 521, 541, and 542 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 415 of this title, the Administrator shall publish such rates and limitations (including those rates adjusted by the Administrator under subsection (b)(2) of this section), as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) Whenever such rates and income limitations are so increased, the Administrator may round such rates and income limitations in such manner as the Administrator considers equitable and appropriate for ease of administration.

(Added P.L. 95-588, § 305(a); amended P.L. 97-295, § 4(76)(d).)

§ 3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony

(a)(1) To the extent provided in subsection (d) of this section, any person who is entitled to compensation or to dependency and indemnity compensation and who is incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days for conviction of a felony shall not be paid such compensation or dependency and indemnity compensation, for the period beginning on the sixty-first day of such incarceration and ending on the day such incarceration ends, in an amount that exceeds—

(A) in the case of a veteran with a service-connected disability rated at 20 percent or more, the rate of compensation payable under section 314(a) of this title; or

(B) in the case of a veteran with a service-connected disability not rated at 20 percent or more or in the case of a surviving spouse, parent, or child, one-half of the rate of compensation payable under section 314(a) of this title.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any period during which a person is participating in a work-release program or is residing in a halfway house.

(Amended P.L. 98-160, § 702.)

(b)(1) All or any part of the compensation not paid to a veteran by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned under the same terms and conditions as are provided under section 3107 of this title.

(2) All or any part of the dependency and indemnity compensation not paid to a surviving spouse or child by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned as follows:

(A) In the case of dependency and indemnity compensation not paid to a surviving spouse, any apportionment shall be to the surviving child or children.

(B) In the case of dependency and indemnity compensation not paid to a surviving child, any apportionment shall be to the surviving spouse or other surviving children, as applicable.

(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(c) The Administrator shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after the date of the enactment of this section, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

(e) For purposes of this section—

(1) The term "compensation" includes disability compensation payable under section 351 of this title.

(2) The term "dependency and indemnity compensation" means death compensation payable under section 321 or 341 of this title, death compensation and dependency and indemnity compensation payable under section 351 of this title, and any benefit payable under chapter 13 of this title.

(Added P.L. 96-385, § 504(a).)

§ 3114. Indebtedness offsets

(a) Subject to subsections (b) and (d) of this section, the Administrator shall (unless the Administrator waives recovery under section 3102 of this title) deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by the Veterans' Administration from future payments made to such person under any law administered by the Veterans' Administration.

(Added P.L. 96-466, § 605(a).)

(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Administrator—

(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title;

(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

(Added P.L. 96-466, § 605(a).)

(c) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

(Added P.L. 96-466, § 605(a).)

(d) The Administrator shall prescribe regulations for the administration of this section.

(Added P.L. 96-466, § 605(a).)

§ 3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

(a) Notwithstanding any other provision of this title or of any other law and subject to section 3102 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Administrator shall prescribe, on any amount owed to the United States—

(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Veterans' Administration other than a loan, loan-guaranty, or loan-insurance program;

(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Veterans' Administration under this title.

(Added P.L. 96–466, § 605(a).)

(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Administrator), but interest under this section shall not be charged (A) for any period before the date of the enactment of this section, or (B) if the amount due is paid within a reasonable period of time. The Administrator shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an indebtedness after the initial notification of indebtedness has been mailed.

(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator under such regulations.

(Added P.L. 96–466, § 605(a).)

(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Administrator determines, under such regulations, to be reasonable and appropriate.

(Added P.L. 96–466, § 605(a).)

§ 3116. Authority to sue to collect certain debts

(a)(1) Within ninety days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Veterans' Administration.

(2) No suit may be filed under this section to recover any indebtedness owed by any person to the United States unless the Administrator has determined, under regulations which the Administrator shall prescribe, that such person has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

(3) The activities of attorneys employed by the Veterans' Administration in bringing suit under this section shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe.

(Added P.L. 96–466, § 605(a).)

(b) Not later than ninety days after the date of the enactment of this section, the Administrator and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

(Added P.L. 96–466, § 605(a).)

(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added P.L. 96–466, § 605(a).)

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

Sec.

3201. Commitment actions.
3202. Payments to and supervision of fiduciaries.
3203. Hospitalized veterans and estates of incompetent institutionalized veterans.
3204. Administration of trust funds.

§ 3201. Commitment actions

The Administrator may incur necessary court costs and other expenses incident to proceedings for the commitment of mentally incompetent veterans to a Veterans' Administration hospital or domiciliary when necessary for treatment or domiciliary purposes.

§ 3202. Payments to and supervision of fiduciaries

(a)(1) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as the Administrator may deem proper.

(2) In a case in which the Administrator determines that a commission is necessary in order to obtain the services of a fiduciary in the best interests of a beneficiary, the Administrator may authorize a fiduciary appointed by the Veterans' Administration to obtain from the beneficiary's estate a reasonable commission for fiduciary services rendered, but the commission for any year may not exceed 4 percent of the monetary benefits under laws administered by the Veterans' Administration paid on behalf of the beneficiary to the fiduciary during such year. A commission may not be authorized for a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary.

(Amended P.L. 93–295, § 301(a); P.L. 98–223, § 207(a); P.L. 99–576, § 701(76).)

(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of the trust of such guardian, curator, conservator, or other person or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by the Administrator's authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in the Administrator's discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. The Administrator may require the fiduciary, as part of such account, to disclose any additional financial information concerning the beneficiary (except for information that is not available to the fiduciary). The Administrator may appear or intervene by the Administrator's duly authorized attorney in any court as an interested party in any litigation instituted by the Administrator or otherwise, directly affecting money paid to such fiduciary under this section.

(Amended P.L. 99-576, §§ 505, 701(76).)

(c) Authority is hereby granted for the payment of any court or other expenses incident to any investigation or court proceeding for the appointment of any fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration or the removal of such fiduciary and appointment of another, and of expenses in connection with the administration of such benefits by such fiduciaries, or in connection with any other court proceeding hereby authorized, when such payment is authorized by the Administrator.

(Amended P.L. 93-295, § 301(b).)

(d) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is an inmate nor apportioned to the veteran's dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Administrator for the benefit of such beneficiary or the beneficiary's dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to the beneficiary if the beneficiary recovers and is found competent, or if a minor, attains majority, or otherwise to the beneficiary's guardian, curator, or conservator, or, in the event of the beneficiary's death, to the beneficiary's personal representative, except as otherwise provided by law; however, payment will not be made to the beneficiary's personal representative if, under the law of the beneficiary's last legal residence, the beneficiary's estate would escheat to the State. In the event of the death of a mentally incompetent or insane veteran, all gratuitous benefits under laws administered by the Veterans' Administration deposited before or after August 7, 1959, in the personal funds of patients trust fund on account of such veteran shall not be paid to the personal representative of such veteran, but shall be paid to the following persons living at the time of settlement, and in the order named: The surviving spouse, the children (without regard to age or marital status) in equal parts, and the dependent parents of such veteran, in equal parts. If any balance remains, such balance shall be deposited to the credit of the applicable current appropriation; except that there may be paid only so much of such balance as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses. No payment shall be made under the two preceding sentences of this subsection unless claim therefor is filed with the Veterans' Administration within five years after the death of the veteran, except that, if any person so entitled under said two sentences is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(Amended P.L. 86-146, § 1(a); P.L. 92-328, § 105(a); P.L. 97-295, § 4(77); P.L. 99-576, § 701(76).)

(e) Any funds in the hands of a fiduciary appointed by a State court or the Veterans' Administration derived from benefits payable under laws administered by the Veterans' Administration, which under the law of the State wherein the beneficiary had last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such fiduciary, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Veterans' Administration, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(Amended P.L. 93-295, § 301(c); P.L. 99-576, § 701(76).)

§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.

(D) In the case of a veteran being furnished hospital or nursing home care by the Veterans' Administration and with respect to whom subparagraph (B) of this paragraph requires a reduction in pension, such reduction shall not be made for a period of up to three additional calendar months after the last day of the third month referred to in such subparagraph if the Administrator determines that the primary purpose for the furnishing of such care during such additional period is for the Veterans' Administration to provide such veteran with a prescribed program of rehabilitation services, under chapter 17 of this title, designed to restore such veteran's ability to function within such veteran's family and community. If the Administrator determines that it is necessary, after such period, for the veteran to continue such program of rehabilitation services in order to achieve the purposes of such program and that the primary purpose of furnishing hospital or nursing home care to the veteran continues to be the provision of such program to the veteran, the reduction in pension required by subparagraph (B) of this paragraph shall not be made for the number of calendar months that the Administrator determines is necessary for the veteran to achieve the purposes of such program.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a spouse but whose pension is payable under section 521(b) of this title. In such a case, the Administrator may apportion and pay to the spouse, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to the veteran if pension were payable under section 521(c) of this title.

(Added P.L. 86-211, § 6(3); amended P.L. 87-556, § 1; P.L. 91-24, § 10; P.L. 93-177, § 5; P.L. 95-588, § 307; P.L. 96-385, § 503(b); P.L. 97-66, § 602(2); P.L. 98-160, § 703.)

(b)(1)(A) In any case in which a veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Veterans' Administration in accordance with regulations as being incompetent, and the veteran's estate (excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home), from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to $500.

(B) The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(C) The Administrator may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Administrator shall prescribe.

(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of the veteran's pension, compensation, or retirement pay as equals the amount charged to the veteran for the veteran's current care and maintenance in the institution in which treatment or care is furnished the veteran, but not more than the amount determined by the Administrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(Amended P.L. 86-146, § 2; P.L. 86-211, § 6(1); P.L. 92-328, § 104(c), (d); P.L. 98-160, § 703; P.L. 98-543, § 402(a).)

(c) Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a spouse, child, or dependent parent.

(Amended P.L. 92-328, § 104(e); P.L. 98-160, § 703.)

(d) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which the veteran is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(Amended P.L. 92-328, § 104(f); P.L. 98-160, § 703.)

(e) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of the veteran's admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veterans' admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

(Added P.L. 87-645, § 2(b); amended P.L. 88-450, § 5(a); P.L. 89-362, § 2; P.L. 99-576, § 701(77).)

§ 3204. Administration of trust funds

All cash balances in the personal funds of patients and the funds due incompetent beneficiaries trust funds administered by the Veterans' Administration, and all moneys received which are properly for deposit into these funds, may be deposited, respectively, into deposit fund accounts with the United States Treasury and such balances and deposits shall thereupon be available for disbursement for properly authorized purposes. When any balances have been on deposit with the Treasurer of the United States for more than one year and represent moneys belonging to individuals whose whereabouts are unknown, they shall be transferred and disposed of as directed in section 1322(a) of title 31.

(Amended P.L. 97-258, § 3(k).)

CHAPTER 57—RECORDS AND INVESTIGATIONS

SUBCHAPTER I—RECORDS

Sec.
3301. Confidential nature of claims.
3302. Furnishing of records.
3303. Certification of records of District of Columbia.
3304. Transcript of trial records.
3305. Confidentiality of medical quality-assurance records.

SUBCHAPTER II—INVESTIGATIONS

3311. Authority to issue subpenas.
3312. Validity of affidavits.
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SUBCHAPTER I—RECORDS

§ 3301. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(Amended P.L. 92-450, § 412(1); P.L. 94-321, § 1(a)(1), (2); P.L. 96-466, § 606(a).)

(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper.

(6) In connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veter-

ans' Administration when in the judgment of the Administrator such disclosure is deemed necessary and proper.

(Amended P.L. 87-671, § 2; P.L. 91-24, § 11; P.L. 94-321, § 1(a)(2); P.L. 94-581, § 210(b)(1); P.L. 96-466, § 606(b).)

(c)(1) The amount of any payment made by the Veterans' Administration to any person receiving benefits under a program administered by the Veterans' Administration shall be made known to any person who applies for such information.

(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan guaranteed, insured, or made under chapter 37 of this title shall be made available to any person who applies for such report or certificate.

(3) Subject to the approval of the President, the Administrator may publish at any time and in any manner any or all information of record pertaining to any claim filed with the Veterans' Administration if the Administrator determines that the public interest warrants or requires such publication.

(Amended P.L. 94-321, § 1(a)(3); P.L. 96-466, § 606(c).)

(d) The Administrator as a matter of discretion may authorize an inspection of Veterans' Administration records by duly authorized representatives of recognized organizations.

(Amended P.L. 94-321, § 1(a)(3); P.L. 94-581, § 210(b)(2).)

(e) Except as otherwise specifically provided in this section with respect to certain information, the Administrator may release information, statistics, or reports to individuals or organizations when in the Administrator's judgment such release would serve a useful purpose.

(Amended P.L. 94-321, § 1(a)(3), (4); P.L. 94-581, § 210(b)(3).)

(f) The Administrator may, pursuant to regulations the Administrator shall prescribe, release the name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such name or address be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.[1]

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[1] Section 502 of Public Law 96-128 provides:

Continued

(Added P.L. 92-540, § 412(2); amended P.L. 94-321, § 1(a)(3), (5); P.L. 96-466, § 606(d).)

(g)(1) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces, to a consumer reporting agency if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection concerning a person described in such paragraph may be made for the purpose of—

(A) locating such a person—

(i) who has been administratively determined to be indebted to the United States by virtue of the person's participation in a benefits program administered by the Veterans' Administration; or

(ii) if the Administrator has determined under such regulations that (I) it is necessary to locate such person in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, and (II) all reasonable steps have been taken to assure that the release of such information to such reporting agency will not have an adverse effect on such person; or

(B) Obtaining a consumer report in order to assess the ability of a person described in clause (A)(i) of this paragraph to repay the indebtedness of such person to the United States, but the Administrator may release the name or address of such person for the purpose stated in this clause only if the Administrator determines under such regulations that such person has failed to respond appropriately to administrative efforts to collect such indebtedness.

(3) The Administrator may also release to a consumer reporting agency, for the purposes specified in clause (A) or (B) of paragraph (2) of this subsection, such other information as the Administrator determines under such regulations is reasonably necessary to identify a person described in such paragraph, except that the Administrator may not release to a consumer reporting agency any information which indicates any indebtedness on the part of such person to the United States or any information which reflects ad-

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"Sec. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1954 regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality) shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code), and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards."

versely on such person. Before releasing any information under this paragraph, the Administrator shall, under such regulations, take reasonable steps to provide for the protection of the personal privacy of persons about whom information is proposed to be released under this paragraph.

(4)(A) If the Administrator determines, under regulations which the Administrator shall prescribe, that a person described in paragraph (1) of this subsection has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness of such person described in paragraph (2)(A)(i) of this subsection, the Administrator may release information concerning the indebtedness, including the name and address of such person, to a consumer reporting agency for the purpose of making such information available for inclusion in consumer reports regarding such person and, if necessary, for the purpose of locating such person, if—

(i) the Administrator has (I) made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title, (II) afforded such person a reasonable opportunity to exercise such rights, and (III) made a determination with respect to any such dispute or request; and

(ii) thirty calendar days have elapsed after the day on which the Administrator has made a determination that reasonable efforts have been made to notify such person (I) that the Administrator intends to release such information for such purpose or purposes, and (II) that, upon the request of such person, the Administrator shall inform such person of whether such information has been so released and of the name and address of each consumer reporting agency to which such information was released by the Administrator and of the specific information so released.

(B) After release of any information under subparagraph (A) of this paragraph concerning the indebtedness of any person, the Administrator shall promptly notify—

(i) each consumer reporting agency to which such information has been released by the Administrator; and

(ii) each consumer reporting agency described in subsection (i)(3)(B)(i) of this section to which such information has been transmitted by the Administrator through a consumer reporting agency described in subsection (i)(3)(B)(ii)(I) of this section,

of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. The Administrator shall also, after the release of such information, inform such person, upon the request of such person, of the name and address of each consumer reporting agency described in clause (i) or (ii) of this subparagraph to which such information was released or transmitted by the Administrator and of the specific information so released or transmitted.

(Added P.L. 96-466, § 606(e).)

(h)(1) Under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces (and other information relating to the identity of such person), to any person in a category of persons described in such regulations and specified in such regulations as a category of persons to whom such information may be released, if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection may be made for the purpose of—

(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

(B) verifying, either before or after the Administrator has approved a person's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the creditworthiness, credit capacity, income, or financial resources of such person;

(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

(Added P.L. 96-466, § 606(e).)

(i)(1) No contract entered into for any of the purposes of subsection (g) or (h) of this section, and no action taken pursuant to any such contract or either such subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or any employee of a consumer reporting agency.

(2) The Administrator shall take reasonable steps to provide for the protection of the personal privacy of persons about whom information is disclosed under subsection (g) or (h) of this section.

(3) For the purposes of this subsection and of subsection (g) of this section—

(A) The term "consumer report" has the meaning provided such term in subsection (d) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

(B) The term "consumer reporting agency" means—

(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

(Added P.L. 96-466, § 606(e).)

(j) Except as provided in subsection (i)(1) of this section, any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.

(Added P.L. 94-321, § 1(a)(5); amended P.L. 96-466, § 606(e), (f).)

§ 3302. Furnishing of records

(a) Any person desiring a copy of any record, paper, and so forth, in the custody of the Veterans' Administration, which may be disclosed under section 3301 of this title, must make written application therefor to the Veterans' Administration, stating specifically—

(1) the particular record, paper, and so forth, a copy of which is desired and whether certified or uncertified; and

(2) the purpose for which such copy is desired to be used.

(b) The Administrator is authorized to fix a schedule of fees for copies and certification of such records.

§ 3303. Certification of records of District of Columbia

When a copy of any public record of the District of Columbia is required by the Veterans' Administration to be used in determining the eligibility of any person for benefits under laws administered by the Veterans' Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person (including any veterans' organization) acting on the veteran's behalf or the authorized representative of the Veterans' Administration with a certified copy of such record.

(Amended P.L. 99-576, § 701(78).)

§ 3304. Transcript of trial records

The Administrator may purchase transcripts of the record, including all evidence, of trial of litigated cases.

§ 3305. Confidentiality of medical quality-assurance records

(a) Records and documents created by the Veterans' Administration as part of a medical quality-assurance program (other than reports submitted pursuant to section 4152(b) of this title) are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

(Added P.L. 96-385, § 505(a); amended P.L. 99-166. § 201.)

(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

(A) To a Federal agency or private organization, if such record or document is needed by such agency or organization to perform licensing or accreditation functions related to Veterans' Administration health-care facilities or to perform monitoring, required by statute, of Veterans' Administration health-care facilities.

(B) To a Federal executive agency or provider of health-care services, if such record or document is required by such agency or provider for participation by the Veterans' Administration in a health-care program with such agency or provider.

(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or document be provided for a purpose authorized by law.

(D) To health-care personnel, to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

(2) The name of and other identifying information regarding any individual Veterans' Administration patient or employee, or any other individual associated with the Veterans' Administration for purposes of a medical quality-assurance program, contained in a record or document described in subsection (a) of this section shall be deleted from any record or document before any disclosure made under this subsection if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

(4) Nothing in this section shall be construed as authority to withhold any record or document from a committee of either House of Congress or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

(5) Nothing in this section shall be construed as limiting the use of records and documents described in subsection (a) of this section within the Veterans' Administration (including contractors and consultants of the Veterans' Administration).

(6) Nothing in this section shall be construed as authorizing or requiring withholding from any person or entity the disclosure of statistical information regarding Veterans' Administration health-care programs (including such information as aggregate morbidity and mortality rates associated with specific activities at individual Veterans' Administration health-care facilities) that does not implicitly or explicitly identify individual Veterans' Administration patients or employees or individuals who participated in the conduct of a medical quality-assurance review.

(Added P.L. 96–385, § 505(a); amended P.L. 99–166, § 201.)

(c) For the purpose of this section, the term "medical quality-assurance program" means—

(1) with respect to any activity carried out before the date of the enactment of this section, a Veterans' Administration systematic health-care review activity carried out by or for the Veterans' Administration for the purpose of improving the

quality of medical care or improving the utilization of health-care resources in Veterans' Administration health-care facilities; and

(2) with respect to any activity carried out on or after the date of the enactment of this section, a Veterans' Administration systematic health-care review activity designated by the Administrator to be carried out by or for the Veterans' Administration for either such purpose.

(Added P.L. 96–385, § 505(a).)

(d)(1) Not later than 180 days after the date of the enactment of this section, the Administrator shall prescribe regulations to carry out this section. In prescribing such regulations, the Administrator shall specify those activities carried out before such enactment date which the Administrator determines meet the definition of medical quality-assurance program in subsection (c)(1) of this section and those activities which the Administrator has designated under subsection (c)(2) of this section. The Administrator shall, to the extent appropriate, incorporate into such regulations the provisions of the existing administrative guidelines and procedures governing such programs.

(2) After the date on which such regulations are first prescribed, no activity shall be considered as having been designated as a medical quality-assurance program for the purposes of subsection (c)(2) of this section unless the designation has been specified in such regulations.

(Added P.L. 96–385, § 505(a).)

(e) Any person who, knowing that a document or record is a document or record described in subsection (a) of this section, willfully discloses such record or document except as provided for in subsection (b) of this section shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

(Added P.L. 96–385, § 505(a).)

SUBCHAPTER II—INVESTIGATIONS

§ 3311. Authority to issue subpenas

For the purposes of the laws administered by the Veterans' Administration, the Administrator, and those employees to whom the Administrator may delegate such authority, to the extent of the authority so delegated, shall have the power to issue subpenas for and compel the attendance of witnesses within a radius of one hundred miles from the place of hearing, to require the production of books, papers, documents, and other evidence, to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations and examine witnesses upon any matter within the jurisdiction of the Veterans' Administration. Any person required by such subpena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States.

§ 3312. Validity of affidavits

Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Veterans' Administration, may be offered or used in any court of the United States and without further proof of the identity or authority of such employee shall have like force and effect as if administered or taken before a clerk of such court.

§ 3313. Disobedience to subpena

In case of disobedience to any such subpena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

CHAPTER 59—AGENTS AND ATTORNEYS

Sec.	
3401.	Prohibition against acting as claims agent or attorney.
3402.	Recognition of representatives of organizations.
3403.	Recognition with respect to particular claims.
3404.	Recognition of agents and attorneys generally.
3405.	Penalty for certain acts.

§ 3401. Prohibition against acting as claims agent or attorney

Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Veterans' Administration unless such individual has been recognized for such purposes by the Administrator.

(Amended P.L. 91-24, § 12(a); P.L. 99-576, § 701(79).)

§ 3402. Recognition of representatives of organizations

(a)(1) The Administrator may recognize representatives of the American National Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War Veterans, the Veterans of Foreign Wars, and such other organizations as the Administrator may approve, in the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration.

(2) The Administrator may, in the discretion of the Administrator, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized.

(b) No individual shall be recognized under this section—

(1) unless the individual has certified to the Administrator that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(2) unless, with respect to each claim, such individual has filed with the Administrator a power of attorney, executed in such manner and form as the Administrator may prescribe.

(c) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted member of the Armed Forces recognized under this section shall not be a violation of sections 203, 205, 206, or 207 of title 18.

(Amended P.L. 91-24, § 12(b); P.L. 98-160, § 703.)

§ 3403. Recognition with respect to particular claims

The Administrator may recognize any individual for the preparation, presentation, and prosecution of any particular claim for benefits under any of the laws administered by the Veterans' Administration if—

(1) such individual has certified to the Administrator that no fee or compensation of any nature will be charged any individual for services rendered in connection with such claim; and

(2) such individual has filed with the Administrator a power of attorney, executed in such manner and in such form as the Administrator may prescribe.

§ 3404. Recognition of agents and attorneys generally

(a) The Administrator may recognize any individual as an agent or attorney for the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration. The Administrator may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and otherwise are competent to assist claimants in presenting claims.

(b) The Administrator, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Veterans' Administration any agent or attorney recognized under this section if the Administrator finds that such agent or attorney—

(1) has engaged in any unlawful, unprofessional, or dishonest practice;

(2) has been guilty of disreputable conduct;

(3) is incompetent;

(4) has violated or refused to comply with any of the laws administered by the Veterans' Administration, or with any of the regulations or instructions governing practice before the Veterans' Administration; or

(5) has in any manner deceived, misled, or threatened any actual or prospective claimant.

(Amended P.L. 99-576, § 701(80).)

(c)(1) In connection with a proceeding before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of the subsection, represents a person before the Veterans' Administration or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or

order of the Board under the preceding sentence may be reviewed by the United States Court of Veterans Appeals under section 4063(d) of this title.

(Amended P.L. 100-687, § 104(a).)

(d)(1) When a claimant and an attorney have entered into a fee agreement described in paragraph (2) of this subsection, the total fee payable to the attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

(2)(A) A fee agreement referred to in paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Administrator directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

(B) For purposes of subparagraph (A) of this paragraph, a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

(3) To the extent that past-due benefits are awarded in any proceeding before the Administrator, the Board of Veterans' Appeals, or the United States Court of Veterans Appeals, the Administrator may direct that payment of any attorneys' fee under a fee arrangement described in paragraph (1) of this subsection be made out of such past-due benefits. In no event may the Administrator withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Administrator, the Board of Veterans' Appeals, or Court of Veterans Appeals making (or ordering the making of) the award.

(Added P.L. 100-687, § 104(a).)

§ 3405. Penalty for certain acts

Whoever (1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 3404 or 784 of this title, or (2) wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due to the claimant or beneficiary, shall be fined as provided in title 18, or imprisoned not more than one year, or both.

(Amended P.L. 99-576, § 701(81); P.L. 100-687, § 104(b).)

CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

Sec.
3501. Misappropriation by fiduciaries.
3502. Fraudulent acceptance of payments.
3503. Forfeiture for fraud.
3504. Forfeiture for treason.
3505. Forfeiture for subversive activities.

§ 3501. Misappropriation by fiduciaries

(a) Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or a claimant's estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Veterans' Administration for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into such fiduciary's control in any manner whatever in the execution of such fiduciary's trust, or under color of such fiduciary's office or service as such fiduciary, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(Amended P.L. 99–576, § 701(82).)

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

§ 3502. Fraudulent acceptance of payments

(a) Any person entitled to monetary benefits under any of the laws administered by the Veterans' Administration whose right to payment thereof ceases upon the happening of any contingency, who thereafter fraudulently accepts any such payment, shall be fined not more than $2,000, or imprisoned not more than one year, or both.

(b) Whoever obtains or receives any money or check under any of the laws administered by the Veterans' Administration without being entitled to it, and with intent to defraud the United States or any beneficiary of the United States, shall be fined not more than $2,000, or imprisoned not more than one year, or both.

§ 3503. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited the right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to the veteran's spouse, children, and parents. Payments made to a spouse, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No spouse, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

(Amended P.L. 98-160, § 703.)

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of the veterans' death.

(Amended P.L. 99-576, § 701(83).)

(d)(1) After September 1, 1959, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but not for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a) any forfeiture occurring before September 1, 1959, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

(2) The Administrator is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Veterans' Administration was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which the Administrator determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, the Administrator shall remit the forfeiture, effective the date of enactment of this amendatory Act. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a case shall be fixed in accordance with the provisions of section 3010(g) of this title.

(Added P.L. 86-222, § 1; amended P.L. 91-24, § 13(a); P.L. 92-328, § 206; P.L. 99-576, § 701(83).)

(e) No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.

(Added P.L. 86–222, § 1.)

§ 3504. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Administrator to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

(b) The Administrator, in the Administrator's discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such person were dead.

(Amended P.L. 99–576, § 701(84).)

(c) In the case of any forfeiture under this section there shall be no authority after September 1, 1959 (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

(Added P.L. 86–222, § 2; amended P.L. 91–24, § 13(b).)

§ 3505. Forfeiture for subversive activities

(a) Any individual who is convicted after September 1, 1959, of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits (including the right to burial in a national cemetery) under laws administered by the Veterans' Administration based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Veterans' Administration shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(Added P.L. 86–222, § 3(a); amended P.L. 93–43, § 8; P.L. 97–295, § 4(79)(A).)

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed in—

(1) sections 894, 904, and 906 of title 10 (articles 94, 104, and 106 of the Uniform Code of Military Justice);

(2) sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18;

(3) sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2272, 2273, 2274, 2275, and 2276); and

(4) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783).

(Added P.L. 86-222, § 3(a); amended P.L. 92-128, § 2(c); P.L. 97-295, § 4(79)(B).)

(c) The Attorney General shall notify the Administrator in each case in which an individual is indicted or convicted of an offense listed in clauses (1), (3), or (4) of subsection (b) of this section. The Secretary of Defense or the Secretary of the Treasury, as may be appropriate, shall notify the Administrator in each case in which an individual is convicted of an offense listed in clause (2) of subsection (b) of this section.

(Added P.L. 86-222, § 3(a).)

PART V—BOARDS AND DEPARTMENTS

CHAPTER Sec.
71. Board of Veterans' Appeals 4001
72. United States Court of Veterans Appeals 4051
73. Department of Medicine and Surgery 4101
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CHAPTER 71—BOARD OF VETERANS' APPEALS

Sec.
4001. Composition of Board of Veterans' Appeals.
4002. Assignment of members of Board.
4003. Determinations by the Board.
4004. Jurisdiction of the Board.
4005. Filing of notice of disagreement and appeal.
4005A. Simultaneously contested claims.
4006. Administrative appeals.
4007. Docketing of appeals.
4008. Rejection of applications.
4009. Independent medical opinions.
4010. Traveling sections.

§ 4001. Composition of Board of Veterans' Appeals

(a) There shall be in the Veterans' Administration a Board of Veterans' Appeals (hereafter in this chapter referred to as the "Board") under the administrative control and supervision of a chairman directly responsible to the Administrator. The Board shall consist of a Chairman, a Vice Chairman, and such number (not more than 65) of members as may be found necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have such other professional, administrative, clerical, and stenographic personnel as are necessary in conducting hearings and considering and disposing of appeals properly before the Board. The Board shall have sufficient personnel under the preceding sentence to enable the Board to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner.

(Amended P.L. 98-223, § 208(a), (c); P.L. 100-687, § 202(b).)

(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing.

(2)(A) The other members of the Board (including the Vice Chairman) shall be appointed by the Administrator, with the approval of the President, based upon recommendations of the Chairman. Each such member shall be appointed for a term of nine years.

(B) A member of the Board (other than the Chairman) may be removed by the Administrator upon the recommendation of the Chairman. In the case of a removal that would be covered by section 7521 of title 5 in the case of an administrative law judge, a removal of a member of the Board under this paragraph shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of such title.

(3) Members (including the Chairman) may be appointed under this subsection to more than one term.

(4) The Administrator shall designate one member of the Board as Vice Chairman. The Vice Chairman shall perform such functions as the Chairman may specify. Such member shall serve as Vice Chairman at the pleasure of the Administrator.

(Amended P.L. 100–687, § 201(a).)

(c)(1) Subject to paragraph (2) of this subsection, the Chairman may from time to time designate employees of the Veterans' Administration to serve as temporary members of the Board. Any such designation shall be for a period of not to exceed one year, as determined by the Chairman. An individual may not serve as a temporary member of the Board for more than 24 months during any 48-month period.

(2) Designation under paragraph (1) of this subsection of an individual as a temporary member of the Board may not be made when there are fewer than 65 members of the Board.

(3) In each annual report to the Congress under section 214 of this title, the Administrator shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which the report is made with respect to the authority provided by paragraph (1) of this subsection. In each such report, the Administrator shall indicate, in terms of full-time employee equivalents, the number of temporary Board members designated under this subsection and the number of acting Board members designated under section 4002(a)(2)(A)(ii) of this title during the year for which the report is made.

(Added P.L. 98–223, § 208(b).)

(d)(1) After the end of each fiscal year, the Chairman shall prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the fiscal year during which the report is prepared and the next fiscal year. Such report shall be included in the documents providing detailed information on the budget for the Veterans' Administration that the Administrator submits to the Congress in conjunction with the President's budget submission for any fiscal year pursuant to section 1105 of title 31.

(2) Each such report shall include, with respect to the preceding fiscal year, information specifying—

(A) the number of cases appealed to the Board during that year;

(B) the number of cases pending before the Board at the beginning and at the end of that year;

(C) the number of such cases which were filed during each of the 36 months preceding the current fiscal year;

(D) the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the preceding fiscal year; and

(E) the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the preceding fiscal year.

(3) The projections in each such report for the current fiscal year and for the next fiscal year shall include (for each such year)—

(A) an estimate of the number of cases to be appealed to the Board; and

(B) an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely dispoition of such appeals as required by section 4003(d) of this title.

(Added P.L. 100–687, § 208.)

(e) A performance incentive that is authorized by law for officers and employees of the Federal Government may be awarded to a member of the Board (including a temporary or acting member) by reason of the member's service on the Board only if the Chairman of the Board determines that such member should be awarded that incentive. A determination by the Chairman for such purpose shall be made taking into consideration the quality of performance of the Board member.

(Added P.L. 100–687, § 209.)

§ 4002. Assignment of members of Board

(a)(1) The Chairman may from time to time divide the Board into sections of three members, assign the members of the Board thereto, and designate the chief thereof.

(2)(A) If a section is composed of fewer than three members as a result of the absence of a member or a vacancy on the Board or the inability of a member assigned to a section to serve on that section, the Chairman—

(i) may assign another member of the Board to the section;

(ii) may designate an employee of the Veterans' Administration to serve as an acting member of the Board on such section for a period of not to exceed 90 days, as determined by the Chairman; or

(iii) may direct the section to proceed with the transaction of business without awaiting the assignment of an additional member to the section.

(B) An individual may not serve as an acting member of the Board for more than 270 days during any 12-month period.

(3) A section of the Board may not at any time have among its members more than one individual who is a temporary member designated under section 4001(c) of this title or an acting member designated under paragraph (2)(A)(ii) of this subsection.

(b) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members as the Chairman may designate, the associate member or members being of the section which will make final determination in the claim.

(c) A section of the Board shall make a determination on any proceeding instituted before the Board and on any motion in connection therewith assigned to such section by the Chairman and shall make a report of any such determination, which report shall constitute its final disposition of the proceeding.

(Amended P.L. 98-223, § 208(c), (d).)

§ 4003. Determinations by the Board

(a) Decisions by a section of the Board shall be made by a majority of the members of the section. The decision of the section is final unless the Chairman orders reconsideration of the case.

(b) If the Chairman orders reconsideration in a case, the case shall upon reconsideration be heard by an expanded section of the Board. When a case is heard by an expanded section of the Board after such a motion for reconsideration, the decision of a majority of the members of the expanded section shall constitute the final decision of the Board.

(c) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record.

(Amended P.L. 100-687, § 202(a).)

§ 4004. Jurisdiction of the Board

(a) All questions in a matter which under section 211(a) of this title is subject to decision by the Administrator shall be subject to one review on appeal to the Administrator. Final decisions on such appeals shall be made by the Board. The Board shall decide any such appeal only after affording the claimant an opportunity for a hearing. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.

(Amended P.L. 100-687, §§ 101(b), 203(a).)

(b) Except as provided in section 3008 of this title, when a claim is disallowed by the Board, the claim may not thereafter be reopened and allowed and a claim based upon the same factual basis may not be considered.

(Amended P.L. 100-687, § 204.)

(c) The Board shall be bound in its decisions by the regulations of the Veterans' Administration, instructions of the Administrator, and the precedent opinions of the chief law officer.

(d) Each decision of the Board shall include—

(1) a written statement of the Board's finding and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

(2) an order granting appropriate relief of denying relief.

(Added P.L. 87-97, § 1; amended, P.L. 100-687, § 205.)

(e) After reaching a decision in a case, the Board shall promptly mail a copy of its written decision to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any).

(Added P.L. 100-687, § 205.)

§ 4005. Filing of notice of disagreement and appeal

(a) Appellate review will be initiated by a notice of disagreement and completed by a substantive appeal after a statement of the case is furnished as prescribed in this section. Each appellant will be accorded hearing and representation rights pursuant to the provisions of this chapter and regulations of the Administrator.

(Added P.L. 87-666, § 1.)

(b)(1) Except in the case of simultaneously contested claims, notice of disagreement shall be filed within one year from the date of mailing of notice of the result of initial review or determination. Such notice, and appeals, must be in writing and be filed with the activity which entered the determination with which disagreement is expressed (hereafter referred to as the "agency of original jurisdiction"). A notice of disagreement postmarked before the expiration of the one-year period will be accepted as timely filed.

(2) Notices of disagreement, and appeals, must be in writing and may be filed by the claimant, the claimant's legal guardian, or such accredited representative, attorney, or authorized agent as may be selected by the claimant or legal guardian. Not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim.

(Added P.L. 87-666, § 1; amended P.L. 99-576, § 701(85).)

(c) If no notice of disagreement is filed in accordance with this chapter within the prescribed period, the action or determination shall become final and the claim will not thereafter be reopened or allowed, except as may otherwise be provided by regulations not inconsistent with this title.

(Added P.L. 87-666, § 1.)

(d)(1) Where the claimant, or the claimant's representative, within the time specified in this chapter, files a notice of disagreement with the decision of the agency of original jurisdiction, such agency will take such development or review action as it deems proper under the provisions of regulations not inconsistent with this title. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such agency shall prepare a statement of the case. A statement of the case shall include the following:

(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

(B) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

(C) The decision on each issue and a summary of the reasons for such decision.

(2) A statement of the case, as required by this subsection, will not disclose matters that would be contrary to section 3301 of this title or otherwise contrary to the public interest. Such matters may

be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant.

(3) Copies of the "statement of the case" prescribed in paragraph (1) of this subsection will be submitted to the claimant and to the claimant's representative, if there is one. The claimant will be afforded a period of sixty days from the date the statement of the case is mailed to file the formal appeal. This may be extended for a reasonable period on request for good cause shown. The appeal should set out specific allegations of error of fact or law, such allegations related to specific items in the statement of the case. The benefits sought on appeal must be clearly identified. The agency of original jurisdiction may close the case for failure to respond after receipt of the statement of the case, but questions as to timeliness or adequacy of response shall be determined by the Board of Veterans' Appeals.

(4) The claimant in any case may not be presumed to agree with any statement of fact contained in the statement of the case to which the claimant does not specifically express agreement.

(5) The Board of Veterans' Appeals may dismiss any appeal which fails to allege specific error of fact or law in the determination being appealed.

(Added P.L. 87-666, § 1; amended P.L. 99-576, § 701(85); P.L. 100-687, §§ 203(b), 206(a), (b).)

§ 4005A. Simultaneously contested claims

(a) In simultaneously contested claims where one is allowed and one rejected, the time allowed for the filing of a notice of disagreement shall be sixty days from the date notice of the adverse action is mailed. In such cases the agency of original jurisdiction shall promptly notify all parties in interest at the last known address of the action taken, expressly inviting attention to the fact that notice of disagreement will not be entertained unless filed within the sixty-day period prescribed by this subsection.

(Added P.L. 87-666, § 1.)

(b) Upon the filing of a notice of disagreement, all parties in interest will be furnished with a statement of the case in the same manner as is prescribed in section 4005. The party in interest who filed a notice of disagreement will be allowed thirty days from the date of mailing of such statement of the case in which to file a formal appeal. Extension of time may be granted for good cause shown but with consideration to the interests of the other parties involved. The substance of the appeal will be communicated to the other party or parties in interest and a period of thirty days will be allowed for filing a brief or argument in answer thereto. Such notice shall be forwarded to the last known address of record of the parties concerned, and such action shall constitute sufficient evidence of notice.

(Added P.L. 87-666, § 1.)

§ 4006. Administrative appeals

Application of review on appeal may be made within the one-year period prescribed in section 4005 of this title by such officials of the Veterans' Administration as may be designated by the Administrator. An application entered under this paragraph shall not operate to deprive the claimant of the right of review on appeal as provided in this chapter.

(Added P.L. 87-666, § 1.)

§ 4007. Docketing of appeals

All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket; however, for cause shown a case may be advanced on motion for earlier consideration and determination. Every such motion shall set forth succinctly the grounds upon which it is based. No such motion shall be granted except in cases involving interpretation of law of general application affecting other claims, or for other sufficient cause shown.

§ 4008. Rejection of applications

An application for review on appeal shall not be entertained unless it is in conformity with this chapter.

§ 4009. Independent medical opinions

(a) When, in the judgment of the Board, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in an appeal case, the Board may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

(Added P.L. 87-671, § 1; amended P.L. 100-687, § 103(b).)

(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Chairman of the Board. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(Added P.L. 87-671, § 1; amended P.L. 100-687, § 103(b).)

(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.

(Added P.L. 100-687, § 103(b).)

§ 4010. Traveling sections

A claimant may request a hearing before a traveling section of the Board. Any such hearing shall be scheduled for hearing before such a section within the area served by a regional office of the Veterans' Administration in the order in which the requests for hearing are received by the Veterans' Administration with respect to hearings in that area.

(Added P.L. 100-687, § 207(a).)

CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

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SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 4051. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Veterans Appeals.

(Added P.L. 100–687, § 301(a).)

§ 4052. Jurisdiction; finality of decisions

(a) The Court of Veterans Appeals shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Administrator may not seek review of any such decision. The court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

(b) Review in the Court shall be on the record of proceedings before the Administrator and the Board. The extent of the review shall be limited to the scope provided in section 4061 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

(c) Decisions by the Court are subject to review as provided in section 4092 of this title.

(Added P.L. 100–687, § 301(a).)

§ 4053. Composition

(a) The Court of Veterans Appeals shall be composed of a chief judge and at least two and not more than six associate judges.

(b) The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

(c) The term of office of the judges of the Court of Veterans Appeals shall be 15 years.

(d) The chief judge is the head of the Court.

(e)(1) The chief judge of the Court shall receive a salary at the same rate as is received by judges of the United States Courts of Appeals.

(2) Each judge of the Court, other than the chief judge, shall receive a salary at the same rate as is received by judges of the United States district courts.

(f)(1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental diability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other ground.

(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

(Added P.L. 100–687, § 301(a).)

§ 4054. Organization

(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

(b) The Court may hear cases by judges sitting alone or in panels, as determined pursuant to procedures established by the Court. Any such panel shall have not less than three judges. The Court shall establish procedures for the assignment of the judges of the Court to such panels and for the designation of the chief of each such panel.

(c)(1) A majority of the judges of the Court shall contitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A

vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

(Added P.L. 100-687, § 301(a).)

§ 4055. Offices

The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court may sit at any place within the United States.

(Added P.L. 100-687, § 301(a).)

§ 4056. Times and places of sessions

The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge.

(Added P.L. 100-687, § 301(a).)

SUBCHAPTER II—PROCEDURE

§ 4061. Scope of review

(a) In any action brought under this chapter, the Court of Veterans Appeals, to the extent necessary to its decision and when preented, shall—

(1) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

(2) compel action of the Administrator unlawfully withheld;

(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, or the Chairman of the Board found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(D) without observance of procedure required by law; and

(4) in the case of a finding of material fact made in reaching a decision in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding if the finding is clearly erroneous.

(b) In making the determinations under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error.

(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Administrator, the Court shall review only questions raised as to compliance with and the validity of the regulation.

(Added P.L. 100–687, § 301(a).)

§ 4062. Fee for filing appeals

(a) The Court of Veterans Appeals may impose a fee of not more than $50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

(Added P.L. 100–687, § 301(a).)

§ 4063. Representation of parties; fee agreements

(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration.

(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 4064 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

(d) In reviewing a fee agreement under subsection (c) of this section or under section 3404(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

(Added P.L. 100–687, § 301(a).)

§ 4064. Rules of practice and procedure

(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section section 4066 of this title.

(Added P.L. 100–687, § 301(a).)

§ 4065. Contempt authority; assistance to the Court

(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) misbehavior of any of its officers in their official transactions; or

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

(Added P.L. 100–687, § 301(a).)

§ 4066. Notice of appeal

(a) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 4004(e) of this title.

(b) The appellant shall also furnish the Administrator with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.

(Added P.L. 100–687, § 301(a).)

§ 4067. Decisions

(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

(b) The Court shall include in its decision a statement of its conclusions of law and determinations as to factual matters.

(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding.

(d)(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision of the judge initially deciding the case shall not be a part of the record.

(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.

(e) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration.

(Added P.L. 100-687, § 301(a).)

§ 4068. Availability of proceedings

(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all briefs, motions, documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public.

(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, submitted to the Court before the Court may, on its own motion, make such other disposition thereof as it considers advisable.

(Added P.L. 100-687, § 301(a).)

§ 4069. Publication of decisions

(a) The Court of Veterans Appeals shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

(b) Such authorized publication shall be competent evidence of the decisions of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

(c) Such publications shall be subject to sale in the same manner and upon the same terms as other public documents.

(Added P.L. 100-687, § 301(a).)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 4081. Employees

The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5.

(Added P.L. 100-687, § 301(a).)

§ 4082. Budget and expenditures

(a) The budget of the Court of Veterans Appeals as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

(b) The Court may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary to execute efficiently the functions vested in the Court.

(c) All expenditures of the Court shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge. Except as provided in section 4085 of this title, all such expenditures shall be paid out of moneys appropriated for purposes of the Court.

(Added P.L. 100-687, § 301(a).)

§ 4083. Disposition of fees

Except for amounts received pursuant to section 4085 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

(Added P.L. 100-687, § 301(a).)

§ 4084. Fee for transcript of record

The Court of Veterans Appeals may fix a fee, not in excess of the fee authorized by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

(Added P.L. 100-687, § 301(a).)

§ 4085. Practice fee

(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

(Added P.L. 100-687, § 301(a).)

SUBCHAPTER IV—DECISIONS AND REVIEW

§ 4091. Date when United States Court of Veterans Appeals decision becomes final

(a) A decision of the United States Court of Veterans Appeals shall become final upon the expiration of the time allowed for filing, under section 4092 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

(2) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) the petition for certiorari has been denied, or

(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(2) the petition for certiorari has been denied, or

(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

(d) As used in this section, the term "mandate", in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

(Added P.L. 100–687, § 301(a).)

§ 4092. Review by United States Court of Appeals for the Federal Circuit

(a) After a decision of the United States Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Veterans Appeals within the time and in the manner prescribed for appeal to United States courts of appeals for United States district courts.

(b)(1) When a judge or panel of the Court of Veterans Appeals, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is in fact a disagreement between the appellant and the Administrator with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the Court of Appeals for the Federal Circuit.

(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

(c) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(D) without observance of procedure required by law.

(2) Except to the extent that an appeal under this chapter presents a constitutional issue, the Court of Appeals may not review (A) a challenge to a factual determination, or (B) challenge to a law or regulation as applied to the facts of a particular case.

(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or reverse the decision of the Court of Veterans Appeals or to remand the matter, as appropriate.

(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.

(Added P.L. 100–687, § 301(a).)

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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SUBCHAPTER I—ORGANIZATION; GENERAL

§ 4101. Functions of Department

(a) There shall be in the Veterans' Administration a Department of Medicine and Surgery under a Chief Medical Director. The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.

(Amended P.L. 94-581, § 205(a)(1).)

(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to assist in providing an adequate supply of health personnel to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health personnel (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physician assistants, expanded-function dental auxiliaries, and other medical technician (including advising all such qualified veterans and members of the armed forces about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.

(Added P.L. 89-785, § 101; amended P.L. 93-82, § 201; P.L. 94-581, §§ 205(a)(2), 209(a)(1), (3), 210(c)(1)(A).)

(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(3)(A) With the approval of the Administrator, any contract or research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph:

(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

(i) funds obligated for the performance of the contract concerned;

(ii) funds available for research or development or both, and not otherwise obligated; or

(iii) funds appropriated for those payments.

(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

(G) The authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

(H) As used in this section, the term "contractor" includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

(4) Funds appropriated to carry out this subsection shall remain available until expended.

(Added P.L. 94-581, § 205(a)(3); amended P.L. 97-295, § 4(80)(A); P.L. 100-322, § 135.)

[(d) Repealed. P.L. 97-295, § 4(80)(B).]

(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter[1] are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.

(Added P.L. 96-330, § 105(a); amended P.L. 100-687, § 1506(a).)

(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than 25 Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall—

(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

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[1] At this point, section 1506(a) of Public Law 100-687 struck out the words "and persons appointed under section 4103(a)(8) of this title". However, the final word of the material intended to be stricken was "chapter", not "title". A technical correction is expected to be enacted in the first session of the 101st Congress.

(ii) assure appropriate geographic distribution of such facilities.

(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

(v) the capability to conduct effectively evaluations of the activities of such center.

(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the

Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

(B) The Committee shall—

(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

(C)(i) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

(II) assessments of the quality of the operations of such centers;

(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

(IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers; and

(V) recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

(3) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to paragraph (1) of this subsection. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.

(Added P.L. 96-330, § 302; amended P.L. 98-528, § 104; P.L. 99-166, § 202.)

§ 4102. Divisions of Department

The Department of Medicine and Surgery shall include the following: Office of the Chief Medical Director, a Medical Service, a Dental Service, a Podiatric Service, an Optometric Service, a Nursing Service, and such other professional and auxiliary services as the Administrator may find to be necessary to carry out the functions of the Department.

(Amended P.L. 89-785, § 102; P.L. 94-581, § 110(1).)

§ 4103. Office of the Chief Medical Director

(a) The Office of the Chief Medical Director shall consist of the following—

(1) The Chief Medical Director, who shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department, and who shall be a qualified doctor of medicine, appointed by the Administrator.

(2) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(3) The Associate Deputy Chief Medical Director, who shall be an assistant to the Chief Medical Director and the Deputy

Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendation of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service. One Assistant Chief Medical Director shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.

(5) Such Medical Directors as may be appointed by the Administrator, upon the recommendation of the Chief Medical Director, to suit the needs of the Department. A Medical Director shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

(6) A Director of Nursing Service, who shall be a qualified registered nurse, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

(7) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services.

(8) Such other personnel as may be authorized by this chapter.

(Amended P.L. 86-568, § 114; P.L. 87-793, § 801; P.L. 88-18; P.L. 88-426, § 117(a); P.L. 89-785, § 103(a); P.L. 93-82, § 202; P.L. 94-581, §§ 110(2), 205(d), 209(c), 210(c); P.L. 96-330, § 303; P.L. 100-687, § 1506(b).)

(b) Except as provided in subsection (c) of this section—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Administrator for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment,[1] is extended shall be subject to removal by the Administrator for cause.

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[1] So in original. The comma probably should not appear.

(Amended P.L. 87-574, § 5; P.L. 87-793, § 801; P.L. 88-426, § 117(a); P.L. 89-785, § 103(b); P.L. 94-581, § 205(d)(3).)

(c) The Administrator may designate a member of the Chaplain Service of the Veterans' Administration as Director, Chaplain Service, for a period of two years, subject to removal by the Administrator for cause. Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years. A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately prior to being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

(Added P.L. 87-574, § 5; amended P.L. 88-426, § 117(a); P.L. 94-581, §§ 205(d)(4), 209(c)(1)(C), 210(c)(2)(B).)

§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) Psychologists (other than those described in paragraph (3) of this section), dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists; and

(3) Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

(Amended P.L. 89-785, § 104; P.L. 94-123, § 5(a); P.L. 94-581, §§ 110(3), 209(1), (2), 210(c)(3); P.L. 96-151, § 302(a); P.L 98-160, § 201; P.L. 98-528, § 108; P.L. 100-322, § 211(a).)

§ 4105. Qualifications of appointees

(a) Any person to be eligible for appointment to the following positions in the Department of Medicine and Surgery must have the applicable qualifications:

(1) Physician—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;

(2) Dentist—

hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;

(3) Nurse—

have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;

(4) Director of a hospital, domiciliary, center or outpatient clinic—

have such business and administrative experience and qualifications as the Administrator shall prescribe;

(5) Podiatrist—

hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;

(6) Optometrist—

hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and be licensed to practice optometry in a State;

(7) Pharmacist—

hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Administrator, and be registered as a pharmacist in a State;

(8) Psychologist— [1]

hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified; and

(9) Physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position—

have such medical, dental, scientific, or technical qualifications as the Administrator shall prescribe.

(Amended P.L. 87-574, § 4(1); P.L. 89-785, § 105; P.L 94-123, § 5(b)(1); P.L. 94-581, §§ 110(4), 205(e), 209(a)(2), (4), (c)(2); P.L. 96-151, § 302(b)(1); P.L. 98-160, §202(a).)

(b) Except as provided in section 4114 of this title, no person may be appointed in the Department of Medicine and Surgery to a position listed in section 4104(1) of this title unless such person is a citizen of the United States.

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[1] Sec. 302(c), Public Law 96-151, provides:

"Sec. 302(c) The amendment made by subsection (b)(1) to require that a psychologist appointed to a position in the Department of Medicine and Surgery of the Veterans' Administration be licensed or certified as a psychologist in a State shall not apply to any person employed as a psychologist by the Veterans' Administration on or before December 31, 1979."

(Added P.L 89-785, § 105; amended P.L. 94-123, §5(b)(2); P.L. 94-581, § 209(a)(1), (2); P.L. 96-151, § 302(b)(2); P.L. 98-160, § 202(b).)

(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after January 1, 1978, to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.

(Added P.L. 95-201, § 4(a)(1); amended P.L. 97-295, § 4(81).)

§ 4106. Period of appointments; promotions

(a) Appointments of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Administrator, without regard to civil-service requirements.

(Amended P.L. 94-581, § 110(5).)

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of two years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find such person not fully qualified and satisfactory such person shall be separated from the service.

(Amended P.L. 96-151, § 303; P.L. 99-576, § 701(86).)

(c) Promotions of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after examination given in accordance with regulations prescribed by the Administrator. Advancement within grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Administrator.

(Amended P.L. 89-785, § 106(a); P.L. 94-581, §§ 110(5), 209(b)(1)(A).)

(d) In determining eligibility for reinstatement in Federal civil service of persons appointed to positions in the Department of Medicine and Surgery, who at the time of appointment shall have a civil-service status, and whose employment in the Department of Medicine and Surgery is terminated, the period of service performed in the Department of Medicine and Surgery shall be included in computing the period of service under applicable civil-service rules and regulations.

(e) In accordance with regulations prescribed by the Administrator, the grade and annual rate of basic pay of a physician, dentist, podiatrist, optometrist, or nurse changed from a level of assignment where the grade level is based on both the nature of the assignment and personal qualifications, may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

(Added P.L. 89-785, § 106(b); amended P.L. 94-581, §§ 110(5), 209(b)(1)(B).)

(f) The provisions of this section shall apply to physician assistants and expanded-duty dental auxiliaries.

(Added P.L. 94-123, § 5(c); amended P.L. 94-581, § 209(a)(1), (2).)

(g)(1) Upon the recommendation of the Chief Medical Director, the Administrator (A) may use the authority in subsection (a) of this section to establish the qualifications for and (subject to paragraph (2) of this subsection) to appoint individuals to positions listed in section 4104(3) of this title, and (B) may use the authority provided in subsection (c) of this section for the promotion and advancement of Veterans' Administration employees serving in such positions.

(2) In using such authority to appoint individuals to such positions, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title

(Added P.L. 98-160, § 203(a); amended P.L. 100-322, § 221.)

§ 4107. Grades and pay scales

(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law. [1]

(Added P.L. 88-426, § 118; amended P.L. 89-301, § 7; P.L. 89-504, § 105; P.L. 89-785, § 107(a)(1); P.L. 90-206, § 208; P.L. 100-322, § 217(a).)

(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall

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[1] Under Executive Order 12,663, promulgated on Jan. 6, 1989, the annual rates and ranges of rates for basic pay for positions provided in Section 4103 are as follows:
Chief Medical Director, $97,206.
Deputy Chief Medical Director, $93,248.
Associate Deputy Chief Medical Director, $89,314.
Assistant Chief Medical Director, $86,682.
Medical Director, $76,990 minimum to $83,818 maximum.
Director of Nursing Service, $76,990 minimum to $82,500 maximum.
Director of Podiatric Service, $67,038 minimum to $82,500 maximum.
Director of Chaplain Service, $$67,038 minimum to $82,500 maximum.
Director of Pharmacy Service, $67,038 minimum to $82,500 maximum.
Director of Dietetic Service, $67,038 minimum to $82,500 maximum.
Director of Optometric Service, $67,038 minimum to $82,500 maximum.

be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as other authorized by law: [2]

PHYSICIAN AND DENTIST SCHEDULE

Director grade.
Executive grade.
Chief grade.
Senior grade.
Intermediate grade.
Full grade.
Associate grade.

NURSE SCHEDULE

Director grade.
Assistant Director grade.
Chief grade.
Senior grade.
Intermediate grade.
Full grade.
Associate grade.
Junior grade.

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief grade.
Senior grade.
Intermediate grade.
Full grade.
Associate grade.

(2) No person may hold the director grade in the "Physician and Dentist Schedule" unless such person is serving as a director of a

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[2] Under Executive Order 12,663 promulgated Jan. 6, 1989, the grades and annual ranges of rates of basic pay provided for in paragraph (1) of section 4104 are as follows:

PHYSICIAN AND DENTIST SCHEDULE

Director grade, $67,038 minimum to $82,500 maximum.
Executive grade, $61,900 minimum to $78,891 maximum.
Chief grade, $57,158 minimum to $74,303 maximum.
Senior grade, $48,592 minimum to $63,172 maximum.
Intermediate grade, $41,121 minimum to $53,460 maximum.
Full grade, $34,580 minimum to $44,957 maximum.
Associate grade, $28,852 minimum to $37,510 maximum.

NURSE SCHEDULE

Director grade, $57,158 minimum to $74,303 maximum.
Assistant Director grade, $48,592 minimum to $63,172 maximum.
Chief grade, $41,121 minimum to $53,460 maximum.
Senior grade, $34,580 minimum to $44,957 maximum.
Intermediate grade, $28,852 minimum to $37,510 maximum.
Full grade, $23,846 minimum to $31,001 maximum.
Associate grade, $20,521 minimum to $26,677 maximum.
Junior grade, $17,542 minimum to $22,807.

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief grade, $57,158 minimum to $74,303 maximum.
Senior grade, $48,592 minimum to $63,172 maximum.
Intermediate grade, $41,121 minimum to $53,460 maximum.
Full grade, $34,580 minimum to $44,957 maximum.
Associate grade, $28,852 minimum to $37,510 maximum.

hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless such person holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position.

(Amended P.L. 86-586, § 114(f); P.L. 87-793, § 802; P.L. 88-426, § 118; P.L. 89-504, § 105; P.L. 89-785, § 107(a)(2); P.L. 90-206, § 208; P.L. 100-322, § 217(b).)

(c) Notwithstanding the provisions of section 4101(e) of this title, any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.

(Added P.L. 89-785, § 107(a)(3); amended P.L. 90-206, § 208; P.L. 94-581, §§ 209 (b)(2)(C), (c)(3)(A), 210(c)(4)(B); P.L. 96-330, § 105(c); P.L 96-385, § 508(a); P.L. 100-322, § 217(c); P.L. 100-687, § 1506(b).)

(d) Notwithstanding any other provision of law, and except as provided in sections 4118 and 4120 of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5314, 5315, or 5316 of title 5 for positions in the Executive Schedule, as follows:

(1) Level III for the Chief Medical Director;

(2) Level IV for the Deputy Chief Medical Director; and

(3) Level V for all other positions for which such basic pay is paid under this section.[3]

(Added P.L. 93-82, § 203(2); amended P.L. 94-123, § 2(b)(4); P.L. 100-322, § 212(b).)

(e)(1) In addition to the rate of basic pay provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional pay as provided by paragraphs (2) through (8) of this subsection.

(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 percent of the nurse's hourly rate of basic pay if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

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[3] Effective January 1, 1989, the applicable rates in effect for the Executive Schedule are as follows:

(1) the level III rate of such pay schedule is $82,500;

(2) the level IV rate of such pay schedule is $80,700; and

(3) the level V rate of such pay schedule is $75,500.

(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Friday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's hourly rate of basic pay, not to exceed one and one-half times the hourly rate of basic pay for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted, except as voluntarily requested in writing by the nurse in question. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to the nurse's place of employment, shall be deemed to be a minimum of two hours in duration. For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

(A) such travel occurs during such nurse's tour of duty; or

(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.

(6) For the purpose of computing the additional pay provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's hourly rate of basic pay shall be derived by dividing such nurse's annual rate of basic pay by two thousand and eighty.

(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of service, the amounts of such additional pay shall be computed separately on the basis of such nurse's hourly rate of basic pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours or on a holiday designated by Federal statute or Executive order shall be paid for each hour of such on-call duty,

except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

(9) Any additional pay paid pursuant to this subsection shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic pay.

(10)(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraph (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.

(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

(Added P.L. 93-82, § 203(2); amended P.L. 94-123, § 5(d)(1); P.L. 94-581, § 209(b)(2)(D), (c)(3)(B)-(C), (c); P.L. 96-330, § 111; P.L. 97-251, § 2(a); P.L. 97-295, § 4(82); P.L. 99-576, § 701(87); P.L. 100-322, § 214(a), (b).)

(f) Physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in subsection (e) of this section. Notwithstanding any other provision of law, when the Administrator determines it to be necessary in order to obtain or retain the services of certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, or occupational therapists, the Administrator may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in subsection (e) of this section. The Administrator shall prescribe by regulation standards for compensation and payment under this subsection.

(Added P.L. 94-123, § 5(d)(2); amended P.L. 94-581, § 209(a)(1), (2); P.L. 97-251, § 2(b); P.L. 98-160, § 204(a); P.L. 100-322, § 211(b).)

(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

(A) of individuals employed in positions listed in paragraphs (1) and (3) of section 4104 of this title;

(B) of health-care personnel who—

(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employees);

(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

(iv) would not otherwise be available to provide medical care and treatment for veterans; or

(C) of employees who are Veterans' Administration police officers providing services under section 218 of this title,

the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market;

(B) to achieve adequate staffing at particular facilities; or

(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists and licensed physical therapists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

(4) In the exercise of the authority provided in paragraph (1) of this subsection with respect to personnel described in clause (B) or (C) of such paragraph to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.

(Added P.L. 96-330, § 112; amended P.L. 98-160, § 204(b); P.L. 98-528, § 101(b).)

(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans' Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled twelve-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full forty-hour basic workweek.

(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full forty-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled twelve-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two twelve-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled twelve-hour tour of duty.

(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two twelve-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of forty hours during an administrative workweek.

(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled twelve-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

(4) The Administrator shall prescribe regulations for the implementation of this subsection.

(Added P.L. 97-251, § 2(c).)

(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met.

(Added P.L. 98-528, § 109.)

(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

(2) This subsection applies to an employee who meets each of the following criteria:

(A) The employee is employed in a position listed in paragraph (3) of setion 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

(B) The employee is employed in a work unit for which on-call premium pay is authorized.

(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

(3) An employee who is eligible for on-call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.

(Added P.L. 100-322, § 213.)

§ 4108. Personnel administration

(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist, podiatrist, optometrist (other than an intern or resident appointed pursuant to section 4114 of this title), nurse, physician assistant, or expanded-function dental auxiliary appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the person, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title;

(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title;

(4) accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

(5) request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

(6) perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both, and in the case of any such fund or account established before September 1, 1973—

(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

(B) no physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded-function dental auxiliary may receive, after September 1, 1973, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

(Amended P.L. 87-793, § 803(a); P.L 93-82, § 204(a); P.L. 94-123, § 5(e); P.L. 94-581, §§ 110(7), 209(a)(1), (2), (c)(4), 201(c)(5); P.L. 97-295, § 4(83).)

(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis.

(Added P.L. 93-82, § 204(a); amended P.L. 94-581, § 205(f); P.L. 96-330, § 113(a).)

(c) As used in this section:

(1) The term "affiliated institution" means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

(2) The term "remuneration" means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.

(Added P.L. 93-82, § 204(a); amended P.L. 96-330, § 113(a).)

(d) Notwithstanding any other provision of law, the Administrator may prescribe regulations establishing conditions under which officers and employees of the Department of Medicine and Surgery who are nationally recognized principal investigators in medical research may be permitted, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Veterans' Administration, or in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Veterans' Administration, to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and such reasonable subsistence expenses as are approved by the Administrator pursuant to such regulations, to be retained by such officers and employees to cover the cost of such expenses or deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

(Added P.L. 96-22, § 501.)

§ 4109. Retirement rights

(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under subchapter III of chapter 83 of title 5.

(Added P.L. 96-330, § 114; amended P.L. 96-385, § 508(b); P.L. 97-72, § 402(a).)

(b) Repealed P.L. 99-272, § 15204(b).

§ 4110. Disciplinary boards

(a) The Chief Medical Director, under regulations prescribed by the Administrator shall from time to time appoint boards to be known as disciplinary boards, each such board to consist of not less than three nor more than five employees, senior in grade, of the Department of Medicine and Surgery, to determine, upon notice and fair hearing, charges of inaptitude, inefficiency, or misconduct of any person employed in a position provided in paragraph (1) of section 4104 of this title. The majority of employees on a disciplinary board shall be employed in the same category of position as the employee who is the subject of the charges.

(Amended P.L. 98-160, § 205.)

(b) The Administrator shall appoint the chairman and secretary of the board, each of whom shall have authority to administer oaths.

(c) The Chief Medical Director may designate or appoint one or more investigators, to assist each disciplinary board in the collection and presentation of evidence. Any person answering to charges before a disciplinary board may be represented by counsel choosen by such person.

(Amended P.L. 99-576, § 701(88).)

(d) A disciplinary board, when in its judgment charges are sustained, shall recommend to the Administrator suitable disciplinary action, within limitations prescribed by the Administrator, which shall include reprimand, suspension without pay, reduction in grade, and discharge from the Department of Medicine and Surgery of such person. The Administrator shall either approve the recommendation of the board, approve such recommendation with modification or exception, approve such recommendation and suspend further action at the time, or disapprove such recommendation. The Administrator shall cause to be executed such action as the Administrator approves. The decision of the Administrator shall be final.

(Amended P.L. 99-576, § 701(88).)

(e) The Administrator, within such limitations as the Administrator may prescribe may delegate to the Chief Medical Director the authority vested in the Administrator by subsections (b) and (d) of this section to (1) appoint the chairman and secretary of a disciplinary board, such official to have the power prescribed by this section, and (2) receive and act upon the recommendations of such a board. Any person against whom disciplinary action is taken under authority delegated pursuant to this subsection shall have the right to appeal such action to the Administrator, but in the absence of such an appeal the decision of the Chief Medical Director shall have the same force and effect as a decision of the Administrator.

(Added P.L. 88-207; amended P.L. 99-576, § 701(88).)

§ 4111. Appointment of additional employees

(a) There shall be appointed by the Administrator under civil-service laws, rules, and regulations, such additional employees, other than those provided in section 4103, paragraphs (1) and (3) of section 4104, and those specified in section 4114 of this title, as may be necessary to carry out the provisions of this chapter.

(Amended P.L. 98-160, § 206.)

(b) Notwithstanding any other provision of law, the Administrator, after considering an individual's existing pay, higher or unique qualifications, or the special needs of the Veterans' Administration, may appoint the individual to a position in the Department of Medicine and Surgery providing direct patient-care services or services incident to direct patient-services at a rate of pay above the minimum rate of the appropriate grade.

(Added P.L. 98-160, § 206.)

§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and allied scientific professions, other individuals considered by the Chief Medical Director to have experience pertinent to the mission of the Department of Medicine and Surgery, and a disabled veteran, nominated by the Chief Medical Director. The duties of the special medical advisory group shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director directly, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

(Amended P.L. 89-785, § 109(a)(3); P.L. 94-581, §§ 110(8), 209(b)(3); P.L. 96-151, § 305; P.L. 98-223, § 290.)

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health manpower, the Administrator shall establish an advisory committee (that is, dean's committee, medical advisory committee or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institutionwide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration (including appropriate representation from the full-time staff) and of the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

(Added P.L. 89-785, § 109(a)(4); amended P.L. 93-82, § 205(b); P.L. 94-581, § 210(c)(6); P.L. 96-330, § 115; P.L. 100-322, § 224(b).)

(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.

(Added P.L. 100–322, § 224(a).)

§ 4113. Travel expenses of employees

The Administrator may pay the expenses, except membership fees, of persons described in section 4103, section 4104(1), and physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries appointed on a temporary full-time or part-time basis under section 4114 of this title detailed by the Chief Medical Director to attend meetings of associations for the promotion of medical and related science.

(Amended P.L. 89–785, § 110; P.L. 94–581, §§ 110(9), 209(a)(5), (c)(5).)

§ 4114. Temporary full-time, part-time, and without compensation appointments; residencies or internships

(a)(1) The Administrator, upon the recommendation of the Chief Medical Director, may employ, without regard to civil service or classification laws, rules, or regulations—

(A) physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, occupational therapists, dietitians, social workers, librarians, and other professional, clerical, technical, and unskilled personnel (including interns, residents, trainees, and students in medical support programs) on a temporary full-time, part-time, or without compensation basis; and

(B) physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists and occupational therapists, and other professional and technical personnel on a fee basis.

(2) Personnel employed under paragraph (1) of this subsection shall be in addition to personnel described in section 4103, paragraphs (1) and (3) of section 4104, and section 4111 of this title and shall be paid such rates of pay as the Administrator may prescribe.

(3)(A) Temporary full-time appointments of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries may exceed ninety days only if the Chief Medical Director finds that circumstances render it impracticable to obtain the necessary services through appointments under paragraph (1) of section 4104 of this title. Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and are pending registration as a graduate nurse in a State, shall not exceed two years. Temporary full-time appointments of other personnel shall not exceed one year except as authorized in subparagraph (D) of this paragraph.

(B) No part-time appointment shall be for a period of more than one year, except for appointments of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, and interns, residents and other trainees in medical support programs and except as authorized in subparagraph (D) of this paragraph.

(C) A student nurse who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Administrator may be reappointed for one year. Other personnel whose appointments are limited by this section to one year may not be reappointed under this subsection.

(D) During any period during which the Administrator is exercising the authority of only section 4106 (a) and (g)(1) of this title in connection with the appointment, under section 4104(3) of this title, of personnel in a category of personnel described in such section 4104(3)—

(i) the Administrator may make temporary full-time appointments of personnel in such category for periods exceeding 90 days if the Chief Medical Director finds that circumstances render it impractical to obtain the necessary services through appointments under paragraph (3) of section 4104 of this title; and

(ii) part-time appointments of personnel in such category may be for periods of more than one year.

(Amended P.L. 87–574, § 4(2); P.L. 89–785, § 111(a); P.L. 91–496, § 1; P.L. 93–82, § 206(1); P.L. 94–581, §§ 110(10)(A), 209(a)(6)(A)–(C); P.L. 99–166, § 203; P.L. 99–576, § 214(a); P.L. 100–687, § 1503(a)(2).)

(b)(1) The Administrator shall have authority to establish residencies and internships; to appoint qualified persons to such positions without regard to civil-service or classification laws, rules, or regulations; and to prescribe the conditions of such employment, including necessary training, and the customary amount and terms of pay (which may be established retroactively based on changes in such customary amount and terms) during the period of such employment and training.

(2) For the purposes of this title, the term "internship" shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term "intern" shall mean a person serving an internship.

(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central ad-

ministrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection, (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq.), where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim such recipient might have to any payment of stipends or employee benefits to which such recipient may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which such recipient serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which such person is serving at the time the leave is to be used to the extent of such person's total accumulated leave, whether or not earned at the hospital in which such person is serving at the time the leave is to be afforded.

(Amended P.L. 93-82, § 206(2); P.L. 94-581, §§ 109, 205(g), 210(c)(7)(A), (B); P.L. 97-295, § 4(85)(A).)

(c) When the Chief Medical Director determines that it is not possible to recruit qualified citizens for the necessary services, appointments under this section may be made without regard to the citizenship requirements of section 4105 of this title or of any other law prohibiting the employment of, or payment of compensation to, a person who is not a citizen of the United States.

(Added P.L. 87-574, § 4(2)(C).)

(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

(B) that the licensure or certification of such an individual be in a State; and

(C) that a psychologist have completed an internship.

(2) The waivers authorized in paragraph (1) of this subsection may be granted—

(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.

(Added P.L. 89-785, § 111(b); amended P.L. 91-496, § 3; P.L. 94-581, §§ 110(10)(B), 209(c)(6), 210(c)(7)(C)-(D); P.L. 99-576, § 214(b); P.L. 100-322, § 223.)

(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physician assistant or expanded-function dental auxiliary shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.

(Added P.L. 93-82, § 206(3); amended P.L. 94-581, § 209(a)(6)(D).)

(f) No person may be appointed under this section after January 1, 1978, to an occupational category described in section 4104(1) of this title or in subsection (b) of this section unless such person meets the requirements established in section 4105(c) of this title and regulations prescribed thereunder.

(Added P.L. 95-201, § 4(a)(2); amended P.L. 97-295, § 4(85)(B).)

(g) In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.

(Added P.L. 96-330, § 116(b).)

§ 4115. Regulations

The Chief Medical Director with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all regulations necessary to the administration of the Department of Medicine and Surgery and consistent with existing law, including regulations relating to travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and to the custody, use, and preservation of the records, papers, and property of the Department of Medicine and Surgery.

§ 4116. Defense of certain malpractice and negligence suits

(a) The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary pharmacist, or paramedical or other supporting personnel (or such person's estate) whose act or omission gave rise to such claim.

(Added P.L. 89-311, § 6(a); amended P.L. 89-506, § 5(b); P.L. 93-82, § 207(1); P.L. 94-581, §§ 110(11), 209(a)(7), 210(c)(8)(A).)

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Administrator.

(Added P.L. 89-311, § 6(a); amended P.L. 94-581, § 210(c)(8)(B).)

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Department of Medicine and Surgery at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person's office or employment, the case shall be remanded to the State court.

(Added P.L. 89-311, § 6(a); amended P.L. 93-82, § 207(2); P.L. 94-581, § 210(c)(8)(C).)

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(Added P.L. 89-311, § 6(a).)

(e) The Administrator may, to the extent the Administrator deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person's duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(Added P.L. 93-82, § 207(3); amended P.L. 94-581, § 210(c)(8)(D).)

(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.

(Added P.L. 100-322, § 203(a).)

§ 4117. Contracts for scarce medical specialist services

The Administrator may enter into contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, technicians, and other medical support personnel).

(Added P.L. 89-785, § 112(a); amended P.L. 93-82, § 208; P.L. 94-581, §§ 110(12), 209(a)(1), (8).)

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which the Administrator shall prescribe to carry out this section, shall provide, in addition to any pay or allowance to which such physician or dentist is entitled, special pay in an amount that (except as provided under subsection (d) of this section) is not more than (A) $22,500 per annum to any physician employed in the Department of Medicine and Surgery on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment), or (B) $10,000 per annum to any dentist so employed on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment), except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration, of a written agreement by such physician or dentist to complete a specified period of service in the Department.

(2) Special pay may not be paid under this section to any physician or dentist who—

(A) is employed on less than a half-time or intermittent basis,

(B) occupies an internship or residency training position, or

(C) is a reemployed annuitant.

(3) The Chief Medical Director, in accordance with such regulations, may determine categories of positions applicable to both physicians and dentists in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians and dentists serving in such positions shall not be eligible for special pay under this section. Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations.

(Added P.L. 94-123, § 2(d)(1); amended P.L. 95-201, § 3(a)(1), (2); P.L. 96-330, § 102(a)(1); P.L. 97-295, § 4(86)(A).)

(b) The Administrator shall exercise the authority contained in this section to provide—

(1) the maximum amount of such special pay to the Chief Medical Director and Deputy Chief Medical Director;

(2) primary special pay of $7,000 to any eligible full-time physician, or $2,500 to any eligible full-time dentist, appointed under this chapter; and

(3) a proportional amount of primary special pay of $7,000 to any eligible part-time physician, or of $2,500 to any eligible part-time dentist, appointed under this chapter, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment.

(Added P.L. 94–123, § 2(d)(1); amended P.L. 96–330, § 102(b).)

(c)(1) In the case of eligible full-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor:

(A)(i) For full-time status, $6,000.

(ii) For tenure of service within the Department of Medicine and Surgery—

(I) of two years but less than five years, $1,000;

(II) of five years but less than eight years, $2,000; and

(III) of eight years or more, $3,000.

(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $9,900;

(ii) as a Chief of Staff or in an Executive Grade, $12,600;

(iii) as a Deputy Service Director or in a Director Grade, $13,000;

(iv) as a Service Director, $13,500;

(v) as a Deputy Assistant Chief Medical Director, $14,440; or

(vi) as an Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $15,300.

(C) For—

(i) specialty or first board certification, $2,000; or

(ii) subspecialty or secondary board certification, $2,500.

(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $5,000.

(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum

amounts of incentive special pay to any full-time dentist eligible therefor:

(A)(i) For full-time status, $1,000.

(ii) For tenure of service within the Department of Medicine and Surgery—

(I) of two years but less than seven years, $500; and

(II) of seven years or more, $1,000.

(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

(ii) as a Chief of Staff or in an Executive Grade, $3,500;

(iii) as a Deputy Service Director or in a Director Grade, $3,625;

(iv) as a Service Director, $3,750;

(v) as a Deputy Assistant Chief Medical Director, $4,000, or

(vi) as an Assistant Chief Medical Director, $4,250.

(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

(A)(i) For tenure of service within the Department of Medicine and Surgery—

(I) of more than two years but less than five years, $750;

(II) of five years but less than eight years, $1,500; and

(III) of eight years or more, $2,250.

(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $3,000 nor more than $12,375.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

(ii) as a Chief of Staff or in an Executive Grade, $9,190.

(C) For—

(i) specialty or first board certification, $1,500; or

(ii) subspecialty or secondary board certification, $1,875.

(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $4,000.

(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

(A)(i) For tenure of service within the Department of Medicine and Surgery—

(I) of more than two years but less than seven years, $500; and

(II) of seven years or more, $1,000.

(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

(ii) as a Chief of Staff or in an Executive Grade, $3,500.

(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

(d) In determining—

(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.

(Added P.L. 94-123, § 2(d)(1); amended P.L. 96-330, § 102(c).)

(e)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years. Any physician or dentist who entered into an agreement under this section and has not failed to refund any amount which such physician or dentist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section.

(2)(A) Any such agreement shall provide that the physician or dentist, in the event that such physician or dentist voluntarily, or because of misconduct, fails to complete at least one year of service, or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section, that such failure is necessitated by circumstances beyond the control of the physician or dentist.

(B) Any such agreement shall specify the terms under which the Veterans' Administration and the physician or dentist may elect to terminate such agreement.

(3) Any amount of special pay payable under this section shall be paid in biweekly installments.

(4)(A) Any physician or dentist who is employed in the Department of Medicine and Surgery before October 13, 1975, and who enters into an agreement under this section during the forty-five-day period beginning on October 22, 1975, is entitled to special pay beginning on October 12, 1975.

(B) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after October 12, 1975, and who enters into an agreement under this section before the close of the forty-five-day period beginning on October 22, 1975, is entitled to special pay beginning on the date on which the physician or dentist becomes employed.

(C) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the close of the forty-five-day period beginning on October 22, 1975, or who does not enter into any agreement under this section before the close of such 45-day period, and who thereafter enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the physician or dentist becomes employed, whichever date is later.

(Added P.L. 94-123, § 2(d)(1); amended P.L. 95-201, § 3(a)(3), (4); P.L. 96-330, § 102(d); P.L. 97-295, § 4(86)(B).)

(f)(1) Except as provided in paragraph (2) of this subsection, any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 84 of title 5, or other benefits related to basic pay.

(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 or 84 of title 5, as the case may be. Notwithstanding the preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) or 8401(3) of such title (as applicable) only—

(A) for the purposes of computing benefits paid under section 8337, 8341(d) or (e), 8442(b), 8443, or 8451 of such title; or

(B) if the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

(Added P.L. 94-123, § 2(d)(1); amended P.L. 96-330, § 103(a); P.L. 100-238, § 126.)

(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1988, and once every four years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and

(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

(3) The President shall include in the Budget next transmitted to the Congress under section 1105 of title 31, after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.

(Added P.L. 96–330, § 104(a); amended P.L. 97–258, § 3(k); P.L. 99–576, § 231(a).)

(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.

(Added P.L. 96–330, § 202.)

§ 4119. Relationship between this subchapter and other provisions of law

Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overridden, or otherwise modified.

(Added P.L. 96–330, § 116(a)(1).)

§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Admnistration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

(A) $2,000 per year, in the case of an agreement for two years.

(B) $3,000 per year, in the case of an agreement for three years, and

(C) $4,000 per year, in the case of an agreement for four years.

(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

(h) The Administrator shall prescribe regulations to carry out this section.

(Added P. L. 100-322, § 212(a).)

SUBCHAPTER II—REGIONAL MEDICAL EDUCATION CENTERS

§ 4121. Designation of Regional Medical Education Centers

(a) In carrying out the Administrator's functions under section 4101 of this title with regard to the training of health manpower, the Administrator shall implement a program under which the Administrator shall designate as Regional Medical Education Centers such Veterans' Administration hospitals as the Administrator determines appropriate to carry out the provisions of this subchapter.

(Added P.L. 92-541, § 3(a); amended P.L. 94-581, § 210(c)(9); P.L. 99-576, § 212(a).)

(b) Each Regional Medical Education Center (hereinafter in this subchapter referred to as "Center") designated under subsection (a) of this section shall provide continuing medical and related education programs for personnel eligible for training under this subchapter, including (1) the teaching of newly developed medical skills and the use of newly developed medical technologies and equipment, (2) advanced clinical instruction, (3) the opportunity for conducting clinical investigations, (4) clinical demonstrations in the utilization of new types of health personnel and in the better utilization of the skills of existing health personnel, and (5) routine verification of basic medical skills and, where determined necessary, remediation of any deficiency in such skills.

(Added P.L. 92-541, § 3(a); amended P.L. 99-576, § 212(b).)

§ 4122. Supervision and staffing of Centers

(a) Centers shall be operated under the supervision of the Chief Medical Director and staffed with personnel qualified to provide the highest quality instruction and training in various medical and health care disciplines.

(Added P.L. 92-541, § 3(a).)

(b) As a means of providing appropriate recognition to persons in the career service of the Department of Medicine and Surgery who possess outstanding qualifications in a particular medical or health care discipline, the Chief Medical Director shall from time to time and for such period as the Chief Medical Director deems appropriate assign such persons to serve as visiting instructors at Centers.

(Added P.L. 92-541, § 3(a); amended P.L. 94-581, §§ 209(c)(7), 210(c)(10).)

(c) Whenever the Chief Medical Director deems it necessary for the effective conduct of the program provided for under this subchapter, the Chief Medical Director is authorized to contract for the services of highly qualified medical and health personnel from outside the Veterans' Administration to serve as instructors at such Centers.

(Added P.L. 92-541, § 3(a); amended P.L. 94-581, § 210(c)(10).)

§ 4123. Personnel eligible for training

(a) The Chief Medical Director shall determine the manner in which personnel are to be selected for training in the Centers. Preference shall be given to career personnel of the Department of Medicine and Surgery.

(Added P.L. 92-541, § 3(a); amended P.L. 94-581, § 113; P.L. 99-576, § 212(c).)

(b) To the extent that facilities are available, medical and health personnel from outside the Department of Medicine and Surgery may, on a reimbursable basis, be provided training in the Centers. Such reimbursement may include reciprocal training of personnel of the Department of Medicine and Surgery provided under sharing arrangements entered into by the Chief Medical Director and the heads of the entities providing such reciprocal training. Any amounts received by the United States as reimbursement under this subsection shall be credited to the applicable Veterans' Administration medical appropriation account.

(Added P.L. 99-576, § 212(c).)

§ 4124. Consultation

The Chief Medical Director shall carry out the provisions of this subchapter after consultation with the special medical advisory group established pursuant to section 4112(a) of this title.

(Added P.L. 92-541, § 3(a).)

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

§ 4131. Informed consent

The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

(Added P.L. 94-581, § 111(a)(1).)

§ 4132. Confidentiality of certain medical records

(a)(1) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsections (e) and (f) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 121(a), (e).)

(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator.

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority, charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.

(D) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4134 of this title.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 121(b).)

(c) Except as authorized by a court order granted under subsection (b)(2)(D) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 121(e).)

(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

(Added P.L. 94-581, § 111(a)(1).)

(e) The prohibitions of this section shall not prevent any interchange of records—

(1) within and among those components of the Veterans' Administration furnishing health care to veterans, or determining eligibility for benefits under this title; or

(2) between such components furnishing health care to veterans and the Armed Forces.

(Added P.L. 94-581, § 111(a)(1).)

(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(Added P.L. 100-322, § 121(c).)

(g) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 121(c), (d).)

§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 122(a).)

§ 4134. Regulations

(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

(b) The regulations referred to in subsection (a) of this section are—

(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.

(Added P.L. 94-581, § 111(a)(1); amended P.L. 100-322, § 122(a).)

[SUBCHAPTER IV §§ 414-4146. Repealed. P.L. 100-322, § 216(a), May 20, 1988, 102 Stat. 487.]

SUBCHAPTER V—QUALITY ASSURANCE

§ 4151. Quality Assurance program

(a) The Administrator shall—

(1) establish and conduct a comprehensive program to monitor and evaluate the quality of health care furnished by the Department of Medicine and Surgery (hereinafter in this section referred to as the "quality-assurance program"); and

(2) delineate the responsibilities of the Chief Medical Director with respect to the quality-assurance program, including the duties prescribed in this section.

(b)(1) As part of the quality-assurance program, the Chief Medical Director shall periodically evaluate—

(A) whether there are significant deviations in mortality and morbidity rates for surgical procedures performed by the Department of Medicine and Surgery from prevailing national mortality and morbidity standards for similar procedures; and

(B) if there are such deviations, whether they indicate deficiencies in the quality of health care provided by the Department of Medicine and Surgery.

(2) The evaluation under paragraph (1)(A) of this subsection shall be made using the information compiled under subsection (c)(1) of this section. The evaluation under paragraph (1)(B) of this subsection shall be made taking into account the factors described in subsection (c)(2)(B) of this subsection.

(3) If, based upon an evaluation under paragraph (1)(A) of this subsection, the Chief Medical Director determines that there is a deviation referred to in that paragraph, the Chief Medical Director shall explain the deviation in the next report submitted under section 4152 of this title.

(c)(1) The Chief Medical Director shall—

(A) determine the prevailing national mortality and morbidity standards for each type of surgical procedure performed by the Department of Medicine and Surgery; and

(B) collect data and other information on mortality and morbidity rates in the Department of Medicine and Surgery for each type of surgical procedure performed by the Department and (with respect to each such procedure) compile the data and other information so collected—

(i) for each medical facility of the Veterans' Administration, in the case of cardiac surgery, heart transplant, and renal transplant programs; and

(ii) in the aggregate, for each other type of surgical procedure.

(2) The Chief Medical Director shall—

(A) compare the mortality and morbidity rates compiled under paragraph (1)(B) of this subsection with the national mortality and morbidity standards determined under paragraph (1)(A) of this subsection; and

(B) analyze any deviation between such rates and such standards in terms of—

(i) the characteristics of the respective patient populations;

(ii) the level of risk for the procedure involved, based on—

(I) patient age;

(II) the type and severity of the disease;

(III) the effect of any complicating diseases; and

(IV) the degree of difficulty of the procedure; and

(iii) any other factor that the Chief Medical Director considers appropriate.

(d) Based on the information compiled and the comparisons, analyses, evaluations, and explanations made under subsections (b) and (c) of this section, the Chief Medical Director, in each report under section 4152 of this title, shall make such recommendations with respect to quality assurance as the Chief Medical Director considers appropriate.

(e)(1) The Administrator shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Department of Medicine and Surgery to carry out its responsibilities under this section.

(2) The Inspector General of the Veterans' Administration shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality-assurance program.

(Added P.L. 99-166, § 204(a).)

§ 4152. Quality-assurance reports

(a)(1) Not later than February 1 of 1987, 1989, and 1991, the Chief Medical Director shall submit to the Administrator a report on the experience through the end of the preceding fiscal year under the quality-assurance program carried out under section 4151 of this title.

(2) Each such report shall include—

(A) the data and other information compiled and the comparisons, analyses, and evaluations made under subsections (b) and (c) of such section with respect to the period covered by the report; and

(B) recommendations under subsection (d) of such section.

(b) Not later than 60 days after receiving each such report, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comment concerning the report that the Administrator considers appropriate.

(c) A report submitted under subsection (b) of this section shall not be considered to be a record or document as described in section 3305(a) of this title.

(Added P.L. 99-166, § 204(a).)

SUBCHAPTER VI—RESEARCH CORPORATIONS

§ 4161. Authority to establish; status

(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

(Added P.L. 100-322, § 204(a).)

§ 4162. Purpose of corporations

Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

(Added P.L. 100–322, § 204(a).)

§ 4163. Board of directors; executive director

(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

(2) subject to subsection (c) of this section, members who are not officers of employees of the Federal Government and who are familiar with issues involving medical and scientific research.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(Added P.L. 100–322, § 204(a).)

§ 4164. General powers

(a) A corporation established under this subchapter may—

(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

(Added P.L. 100–322, § 204(a).)

§ 4165. Applicable State law

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

(Added P.L. 100–322, § 204(a).)

§ 4166. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year.

(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

(Added P.L. 100–322, § 204(a).)

§ 4167. Report to Congress

Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

(Added P.L. 100–322, § 204(a).)

§ 4168. Expiration of authority

No corporation may be established under this subchapter after September 30, 1991.

(Added P.L. 100–322, § 204(a).)

CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.
4201. Purpose of Veterans' Canteen Service.
4202. Duties of Administrator with respect to Service.
4203. Operation of Service.
4204. Financing of Service.
4205. Revolving fund.
4206. Budget of Service.
4207. Audit of accounts.
4208. Service to be independent unit.
4209. Child-care centers.
4210. Exemption from personnel ceilings.

§ 4201. Purpose of Veterans' Canteen Service

The Veterans' Canteen Service (hereafter in this chapter referred to as the "Service") in the Veterans' Administration is an instrumentality of the United States, created for the primary purpose of making available to veterans of the Armed Forces who are hospitalized or domiciled in hospitals and homes of the Veterans' Administration, at reasonable prices, articles of merchandise and services essential to their comfort and well-being.

§ 4202. Duties of Administrator with respect to Service

The Administrator shall—

(1) establish, maintain, and operate canteens where deemed necessary and practicable at hospitals and homes of the Veterans' Administration and at other Veterans' Administration establishments where similar essential facilities are not reasonably available from outside commercial sources;

(2) establish, maintain, and operate such warehouses and storage depots as may be necessary in operating the canteens;

(3) furnish the Service for its use in connection with the establishment, maintenance, and operation thereof, such space, buildings, and structures under control of the Veterans' Administration as the Administrator may consider necessary, including normal maintenance and repair service thereon. Reasonable charges, to be determined by the Administrator, shall be paid annually by the Service for the space, buildings, and structures so furnished, except that the Administrator may reduce or waive such charges whenever payment of such charges would impair the working capital required by the Service;

(4) transfer to the Service without charge, rental, or reimbursement such necessary equipment as may not be needed for other purposes, and furnish the Service such services and utilities, including light, water, and heat, as may be available and necessary for its use. Reasonable charges, to be determined by the Administrator, shall be paid annually by the Service for the utilities so furnished;

(5) employ such persons as are necessary for the establishment, maintenance, and operation of the Service, and pay the salaries, wages, and expenses of all such employees from the funds of the Service. Personnel necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots shall be appointed, compensated from funds of the Service, and removed by the Administrator without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5. Those employees are subject to the provisions of title 5 relating to a preference eligible described in section 2108(3) of title 5, subchapter I of chapter 81 of title 5, and subchapter III of chapter 83 of title 5;

(6) make all necessary contracts or agreements to purchase or sell merchandise, fixtures, equipment, supplies, and services, without regard to section 5 of title 41 and to do all things necessary to carry out such contracts or agreements, including the making of necessary adjustments and compromising of claims in connection therewith;

(7) fix the prices of merchandise and services in canteens so as to carry out the purposes of this chapter;

(8) accept gifts and donations of merchandise, fixtures, equipment, and supplies for the use and benefit of the Service;

(9) make such rules and regulations, not inconsistent with the provisions of this chapter, as the Administrator considers necessary or appropriate to effectuate its purposes;

(10) delegate such duties and powers to employees as the Administrator considers necessary or appropriate, whose official acts performed within the scope of the delegated authority shall have the same force and effect as though performed by the Administrator;

(11) authorize the use of funds of the Service when available, subject to such regulations as the Administrator may deem appropriate, for the purpose of cashing checks, money orders, and similar instruments in nominal amounts for the payment of money presented by veterans hospitalized or domiciled at hospitals and homes of the Veterans' Administration, and by other persons authorized by section 4203 of this title to make purchases at canteens. Such checks, money orders, and other similar instruments may be cashed outright or may be accepted, subject to strict administrative controls, in payment for merchandise or services, and the difference between the amount of the purchase and the amount of the tendered instrument refunded in cash.

(Amended P.L. 86-109, § 1; P.L. 94-581, § 210(d); P.L. 97-295, § 4(88)(A), (B); P.L. 99-576, § 702(13).)

§ 4203. Operation of Service

(a) The canteens at hospitals and homes of the Veterans' Administration shall be primarily for the use and benefit of veterans hospitalized or domiciled at such hospitals and homes. Service at such canteens may also be furnished to personnel of the Veterans' Administration and recognized veterans' organizations employed at such hospitals and homes and to other persons so employed, to the families of all the foregoing persons who reside at the hospital or home concerned, and to relatives and other persons while visiting any of the persons named in this subsection; however, service to any person not hospitalized, domiciled, or residing at the hospital or home shall be limited to the sale of merchandise or services for consumption or use on the premises.

(b) Service at canteens other than those established at hospitals and homes shall be limited to sales of merchandise and services for consumption or use on the premises, to personnel employed at such establishments, their visitors, and other persons at such establishments on official business.

§ 4204. Financing of Service

To finance the establishment, maintenance, and operation of the Service there is hereby authorized to be appropriated, from time to time, such amounts as are necessary to provide for (1) the acquisition of necessary furniture, furnishings, fixtures, and equipment for the establishment, maintenance, and operation of canteens, warehouses, and storage depots; (2) stocks of merchandise and supplies for canteens and reserve stocks of same in warehouses and storage depots; (3) salaries, wages, and expenses of all employees; (4) administrative and operation expenses; and (5) adequate working capital for each canteen and for the Service as a whole. Amounts appropriated under the authority contained in this chapter and all income from canteen operations become and will be administered as a revolving fund to effectuate the provisions of this chapter.

(Amended P.L. 92-310, § 209; P.L. 99-576, § 702(14).)

§ 4205. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts or other interest-bearing accounts in other depositaries selected by the Administrator.

(Amended P.L. 100-322, § 414(a).)

§ 4206. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year.

(Amended P.L. 97-258, § 3(k); P.L. 100-322, § 414(a).)

§ 4207. Audit of accounts

The Service shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31.

(Amended P.L. 93-604, § 704; P.L. 97-295, § 4(89); P.L. 97-452, § 2(e)(3).)

§ 4208. Service to be independent unit

It is the purpose of this chapter that, under control and supervision of the Administrator, the Service shall function as an independent unit in the Veterans' Administration and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management, except as otherwise provided in this chapter.

(Amended P.L. 97-295, § 4(90).)

§ 4209. Child-care centers

(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies.

(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

(d) The Administrator shall prescribe regulations to carry out this section.

(e) For the purpose of this section, the term "parent advisory committee" means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.

(Added P.L. 100-322, § 412(a).)

§ 4210. Exemption from personnel ceilings

Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.

(Added P.L. 100-322, § 414(b).)

CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

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SUBCHAPTER I—GENERAL

§ 4301. Establishment of program; purpose

(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"). The program consists of—

(1) the scholarship program provided for in subchapter II of this chapter, and

(2) the tuition reimbursement program provided for in subchapter III of this chapter.

(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

(Added P.L. 100–322, § 216(b).)

§ 4302. Eligibility

(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

(Added P.L. 100-322, § 216(b).)

§ 4303. Application and acceptance

(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted, by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

(Added P.L. 100–322, § 216(b).)

§ 4304. Terms of agreement

An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Administrator's agreement—

(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

(2) The participant's agreement—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in the course of training until completed;

(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

(Added P.L. 100–322, § 216(b).)

SUBCHAPTER II—SCHOLARSHIP PROGRAM

§ 4311. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter.

The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

(Added P.L. 100-322, § 216(b).)

§ 4312. Eligibility; application; agreement

(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

(3) In the case of a participant who is a part-time student—

(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

(Added P.L. 100-322. § 216(b).)

§ 4313. Scholarship

(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) an 4314(2) of this title.

(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

(Added P.L. 100-322, § 216(b).)

§ 4314. Part-time students

In the case of a participant who is a part-time student—

(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

(Added P.L. 100-322, § 216(b).)

§ 4315. Status of participants

Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

(Added P.L. 100-322, § 216(b).)

§ 4316. Obligated service

(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

(2) As soon as possible after the participant's service commencement date, the Administrator shall—

(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

(3) For the purposes of this section, the term "course completion date" means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

(Added P.L. 100-322, § 216(b).)

§ 4317. Breach of agreement: liability

(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any or the following occurs:

(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

(2) The participant is dismissed from such educational institution for disciplinary reasons.

(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State,

fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribe by the Administrator.

(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "Φ" is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

(D) "s" is the number of months of such period served by the participant in accordance with section 4313 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

(Added P.L. 100-322, § 216(b).)

§ 4318. Expiration of program

The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

(Added P.L. 100-322, § 216(b).)

SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

§ 4321. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

(Added P.L. 100-322, § 216(b).)

§ 4322. Eligibility; application; agreement

(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequsites.

(2) The participant's agreement—

(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the "period of obligated service") after completion of the course for which the participant received tuition reimbursement.

(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year adjusted in accordance with section 4331 of this title).

(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

(Added P.L. 100-322, § 216(b).)

§ 4323. Obligated service

(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(e) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

(Added P.L. 100-322, § 216(b); amended P.L. 100-687, § 1503(a)(3).)

(d) In the case of a participant whose tuition was paid pursuant to section 4322(e) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

(Added P.L. 100-322, § 216(b); amended P.L. 100-687, § 1503(a)(3).)

(e) For the purposes of this section, the term "course completion date" means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

(Added P.L. 100-322, § 216(b).)

§ 4324. Breach of agreement: liability

(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

(2) in lieu of any service obligation arising from participation in the program, shall be liable to the United States for the amount which has been paid or is payable to or on behalf of the participant under the agreement, reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service.

(Amended P.L. 100-687, § 1503(a)(4)(A).)

(b) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

(Added P.L. 100-322, § 216(b); amended P.L. 100-687, § 1503(a)(4)(B).)

§ 4325. Allocation and distribution of funding

In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for the fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

(Added P.L. 100-322, § 216(b).)

SUBCHAPTER IV—ADMINISTRATIVE MATTERS

§ 4331. Periodic adjustments in amount of assistance

(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

(b) For purposes of this section:

(1) The term "maximum monthly stipend amount" means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

(2) The term "maximum tuition reimbursement amount" means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program

specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

(3) The term "general Federal pay increase" means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

(Added P.L. 100-322, § 216(b).)

§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

(2) The education institutions providing such training to students in each program.

(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

(Added P.L. 100-322, § 216(b).)

§ 4333. Regulations

The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

(Added P.L. 100-322, § 216(b).)

§ 4334. Breach of agreement; waiver of liability

(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

(b) The Administrator shall prescribe regulations providing for the waiver of suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

(Added P.L. 100–322, § 216(b).).

§ 4335. Service in other agencies

(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

(Added P.L. 100–322, § 216(b).)

§ 4336. Exemption of educational assistance payments from taxation

Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.

(Added P.L. 100–322, § 216(b).)

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

§ 5001. Definitions

For the purposes of this subchapter:

(1) The term "alter", with respect to a medical facility, means to repair, remodel, improve, or extend such medical facility.

(2) The terms "construct" and "alter", with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies and such surveys, designs, plans, working drawings, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried out after the completion of the advanced planning (including the development of project requirements and preliminary plans) for such facility.

(3) The term "medical facility" means any facility or part thereof which is, or will be, under the jurisdiction of the Administrator for the provision of health-care services (including hospital, nursing home, or domiciliary care or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

(4) The term "committee" means the Committee on Veterans' Affairs of the House of Representatives or the Committee on Veterans' Affairs of the Senate, and the term "committees" means both such committees.

(Amended P.L. 88-450, § 1; P.L. 89-311, § 8; P.L. 93-82, § 301(a)-(c); P.L. 94-581, §§ 114, 206(a), 210(e)(1); P.L. 95-201, §4(c); P.L. 96-22, § 301(a).)

§ 5002. Acquisition of medical facilities

(a) The Administrator shall provide medical facilities for veterans entitled to hospital, nursing home, or domiciliary care or medical services under this title.

(Amended P.L. 94-581, § 210(e)(2); P.L. 96-22, § 301(a).)

(b) No medical facility may be constructed or otherwise acquired or altered except in accordance with the provisions of this subchapter.

(Added P.L. 96-22, § 301(a).)

(c) In carrying out this subchapter, the Administrator—

(1) shall provide for the construction and acquisition of medical facilities in a manner that results in the equitable distribution of such facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility; and

(2) shall give due consideration to excellence of architecture and design.

(Added P.L. 96-22, § 301(a).)

(d) In considering the need for any project for the construction, alteration, or acquisition (other than by exchange) of a medical facility which is expected to involve a total expenditure of more than $2,000,000, the Administrator shall give consideration to the sharing of health-care resources with the Department of Defense under section 5001 of this title as an alternative to all or part of such project.

(Added P.L. 99–576, § 221(a).)

§ 5003. Authority to construct and alter, and to acquire sites for, medical facilities

(a) Subject to section 5004 of this title, the Administrator—

(1) may construct or alter any medical facility and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including the site of such facility) that the Administrator considers necessary for use as a medical facility; and

(3) in order to assure compliance with section 5010(a)(2) of this title, in the case of any outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, shall execute a lease for such facility within 12 months after funds are made available for such purpose.

(Amended P.L. 96–22, § 301(a).)

(b) Whenever the Administrator considers it to be in the interest of the United States to construct a new medical facility to replace an existing medical facility, the Administrator (1) may demolish the existing facility and use the site on which it is located for the site of the new medical facility, or (2) if in the judgment of the Administrator it is more advantageous to construct such medical facility on a different site in the same locality, may exchange such existing facility and the site of such existing facility for the different site.

(Added P.L. 96–22, § 301(a).)

(c) Whenever the Administrator determines that any site acquired for the construction of a medical facility is not suitable for that purpose, the Administrator may exchange such site for another site to be used for that purpose or may sell such site.

(Added P.L. 96–22, § 301(a).)

§ 5004. Congressional approval of certain medical facility acquisitions

(a)(1) The purpose of this subsection is to enable Congress to ensure the equitable distribution of medical facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility.

(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.

(3) For the purpose of this subsection:

(A) The term "major medical facility project" means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

(B) The term "major medical facility lease" means a lease for space for use as a medical facility at an average annual rental of more than $500,000.

(Amended P.L. 89-785, § 201(a); P.L. 96-22, § 301(a); P.L. 99-166, § 301; P.L. 100-322, § 422(a), (b).)

(b) In the event that the President or the Administrator proposes to the Congress the funding of any construction, alteration, lease, or other acquisition to which subsection (a) of this section is applicable, the Administrator shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Such prospectus shall include—

(1) a detailed description of the medical facility to be constructed, altered, leased, or otherwise acquired under this subchapter, including a description of the location of such facility and, in the case of a prospectus proposing the construction of a new or replacement medical facility, a description of the consideration that was given to acquiring an existing facility by lease or purchase and to the sharing of health-care resources with the Department of Defense under section 5011 of this title;

(2) an estimate of the cost to the United States of the construction, alteration, lease, or other acquisition of such facility (including site costs, if applicable); and

(3) an estimate of the cost to the United States of the equipment required for the operation of such facility.

(Added P.L. 89-785, § 201(a); amended P.L. 94-581, § 210(e)(3); P.L. 96-22, § 301(a); P.L. 99-166, § 303; P.L. 99-576, § 221(b).)

(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.

(Added P.L. 89-785, § 201(a); amended P.L. 96-22, § 301(a); P.L. 100-322, § 422(c).)

(d) In any case in which the Administrator proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Administrator shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

(Added P.L. 96-22, § 301(a); amended P.L. 100-322, § 422(d).)

(e) The Administrator may accept gifts or donations for any of the purposes of this subchapter.

(Added P.L. 96-22, § 301(a); amended P.L 100-322, § 422(d).)

§ 5005. Structural requirements

(a) Each medical facility (including each nursing home facility for which the Administrator contracts under section 620 of this title and each State home facility constructed or altered under subchapter III of this chapter) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

(Amended P.L. 94-581, § 210(e)(4); P.L. 96-22, § 301(a); P.L. 96-128, § 501(e).)

(b)(1) In order to carry out this section, the Administrator shall appoint an advisory committee to be known as the "Advisory Committee on Structural Safety of Veterans' Administration Facilities", on which shall serve at least one architect and one structural engineer who are experts in structural resistance to fire, earthquake, and other natural disasters and who are not employees of the Federal Government.

(2) Such advisory committee shall advise the Administrator on all matters of structural safety in the construction and altering of medical facilities in accordance with the requirements of this section and shall review and make recommendations to the Administrator on the regulations prescribed under this section.

(3) The Associate Deputy Administrator, the Chief Medical Director or the designee of the Chief Medical Director, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such advisory committee.

(Added P.L. 96-22, § 301(a).)

§ 5006. Construction contracts

(a) The Administrator may carry out any construction or alteration authorized under this subchapter by contract if the Administrator considers it to be advantageous to the United States to do so.

(Amended P.L. 96–22, § 301(a).)

(b)(1) The Administrator may obtain, by contract or otherwise, the services of individuals who are architects or engineers and of architectural and engineering corporations and firms, to the extent that the Administrator may require such services for any medical facility authorized to be constructed or altered under this subchapter.

(2) No corporation, firm, or individual may be employed under the authority of paragraph (1) of this subsection on a permanent basis.

(Added P.L. 96–22, § 301(a).)

(c) Notwithstanding any other provision of this section, the Administrator shall be responsible for all construction authorized under this subchapter, including the interpretation of construction contracts, the approval of materials and workmanship supplied pursuant to a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

(Added P.L. 96–22, § 301(a).)

§ 5007. Operational and construction plans for medical facilities

(a)(1) In order to promote effective planning for the orderly construction, replacement, and alteration of medical facilities in accordance with the comparative urgency of the need for the services to be provided by such facilities, the Administrator, after considering the analysis and recommendations of the Chief Medical Director, shall submit to each committee an annual report on the construction, replacement, alteration, and operation of medical facilities.

(2) Each such report shall contain—

(A) a five-year strategic plan for the operation and construction of medical facilities—

(i) setting forth—

(I) the mission of each existing or proposed medical facility;

(II) any planned change in such mission; and

(III) the operational steps needed to achieve the facility's mission and the dates by which such steps are planned to be completed; and

(ii) a five-year plan, based on the factors set out in subclause (i) of this clause, for construction, replacement, or alteration projects for each such facility;

(B) a list, in order of priority, of not less than 10 hospitals that, in the judgment of the Administrator, after considering the analysis and recommendations of the Chief Medical Director, are most in need of construction or replacement; and

(C) general plans (including projects costs, site location, and, if appropriate, necessary land acquisition) for each medical facility for which construction, replacement, or alteration is planned under clause (A)(ii) of this paragraph.

(3) The report under this subsection shall be submitted not later than June 30 of each year.

(Added P.L. 93-82, § 3002(1); amended P.L. 94-581, § 210(e)(5); P.L. 96-22 § 301(a); P.L. 99-166, § 302(a); P.L. 99-576, § 222.)

(b) The Administrator shall submit to each committee not later than January 31 of each year a report showing the location, space, cost, and status of each medical facility (1) the construction, alteration, lease, or other acquisition of which has been approved under section 5004(a) of this title, and (2) which was uncompleted as of the date of the last preceding report made under this subsection.

(Added P.L. 99-22, § 301(a); amended P.L. 99-166, § 302(b).)

§ 5008. Contributions to local authorities

The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a medical facility if considered necessary for safe ingress or egress.

(Added P.L. 99-22, § 301(a).)

§ 5009. Parking facilities

(a) For the purpose of this section—

(1) The term "garage" means a structure (or part of a structure) in which vehicles may be parked.

(2) The term "parking facility" includes—

(A) a surface parking lot; and

(B) a garage.

(3) The term "eligible person" means an individual to whom the Administrator is authorized to furnish medical examination or treatment.

(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans and eligible persons to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Administrator—

(1) may construct or alter parking facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for any such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility; and

(3) may operate and maintain parking facilities.

(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility—

(A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment; or

(B) a volunteer worker (as determined in accordance with regulations which the Administrator shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

(3) The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

(d)(1) For each medical facility where funds from the revolving fund described in subsection (h) of this section are expended for—

(A) a garage constructed or acquired by the Veterans' Administration at a cost exceeding $500,000 (or, in the case of acquisition by lease $100,000 per year); or

(B) a project for the alteration of a garage at a cost exceeding $500,000,

the Administrator shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

(2) The parking fee schedule prescribed for a medical facility referred to in paragraph (1) of this subsection shall be designed to establish fees which the Administrator determines are reasonable under the circumstances.

(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility.

(f) The Administrator may contract (by lease or otherwise) for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator prescribes and may do so without regard to laws requiring full and open competition.

(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part) the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities.

(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(3)(A) Except as provided in subparagraph (B) of this paragraph, no funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition (including site acquisition) of a garage at a medical facility after September 30, 1986.

(B) Subparagraph (A) of this paragraph does not apply to the use of funds for investigations and studies, surveys, designs, plans, working drawings, specifications, and similar actions not directly involved in the physical construction of a structure.

(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $2,000,00 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

(Added P.L. (96-22, § 301(a); amended P.L. 99-576, § 223(a).)

§ 5010. Operation of medical facilities

(a)(1) The Administrator shall establish the total number of hospital beds and nursing home beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans at not more than 125,000 and not less than 100,000. The Administrator shall establish the total number of such beds so as to maintain a contingency capacity to assist the Department of Defense in time of war or national emergency to care for the casualties of such war or national emergency. Of the number of beds authorized pursuant to the preceding sentence, the Administrator shall operate and maintain a total of not less than 90,000 hospital beds and nursing home beds and shall maintain the availability of such additional beds and facilities in addition to the operating bed level as the Administrator considers necessary for such contingency purposes. The President shall include in the Budget transmitted to the Congress for each fiscal year pursuant to section 1105 of title 31, an amount for medical care and amounts for construction sufficient to enable the Veterans' Administration to operate and maintain a total of not less than 90,000 hospital and nursing home beds in accordance with this paragraph and to maintain the availability of the contingency capacity referred to in the second sentence of this paragraph. The Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

(2) The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital, nursing home, and

domiciliary care, and of medical services furnished pursuant to section 612 of this title.

(3)(A) The Chief Medical Director shall at the end of each fiscal year (i) analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care, medical services, and nursing home care, but are rejected or not immediately admitted or provided such care or services, and (ii) review and make recommendations regarding the adequacy of the established operating bed levels, the geographic distribution of operating beds, the demographic characteristics of the veteran population and the associated need for medical care and nursing home facilities and services in each State, and the proportion of the total number of operating beds that are hospital beds and that are nursing home beds.

(B) After considering the analyses and recommendations of the Chief Medical Director pursuant to subparagraph (A) of this paragraph for any fiscal year, the Administrator shall report to the committees, on or before December 1 after the close of such fiscal year, on the results of the analysis of the Chief Medical Director and on the numbers of operating beds and level of treatment capacities required to enable the Veterans' Administration to carry out the primary function of the Department of Medicine and Surgery. The Administrator shall include in each such report recommendations for (i) the numbers of operating beds and the level of treatment capacities required for the health care of veterans and the maintenance of the contingency capacity referred to in paragraph (1) of this subsection, and (ii) the appropriate staffing and funds therefor.

(4)(A) With respect to each law making appropriations for the Veterans' Administration for any fiscal year (or any part of a fiscal year), there shall be provided to the Veterans' Administration the funded personnel ceiling defined in subparagraph (D) of this paragraph and the funds appropriated therefor.

(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Veterans' Administration for the fiscal year (or part of a fiscal year) concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Veterans' Administration for the employees described in subparagraph (D) of this paragraph.

(C) Whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than fifteen days after the end of the period specified in such subparagraph for the Director to submit the certification.

(D) For the purposes of this paragraph, the term "funded personnel ceiling" means, with respect to any fiscal year (or part of a fiscal year), the authorization by the Director of the Office of Management and Budget to employ (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year (or part of a fiscal year).

(5) Notwithstanding any other provision of this title or of any other law, funds appropriated for the Veterans' Administration under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses may not be used for, and no employee compensated from such funds may carry out any activity in connection with, the conduct of any study comparing the cost of the provision by private contractors with the cost of the provision by the Veterans' Administration of commercial or industrial products and services for the Department of Medicine and Surgery unless such funds have been specifically appropriated for that purpose.

(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

(B) For purposes of subparagraph (A) of this paragraph, the term "temporary research personnel" means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.

(Added P.L. 96-22, § 301(a); amended P.L. 96-151, § 301(a); P.L. 97-66, § 601)b)(1), (2); P.L. 97-72, § 108(a)(1), (2); P.L. 97-452, § 2(e)(4); amended P.L. 98-528, § 102; P.L. 99-576, § 702(15); P.L. 100-322, § 222(a).)

(b) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(Added P.L. 96-22, § 301(a); amended P.L. 97-72, § 108(b).)

(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (3) of this subsection—

(A) a contract may not be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction (hereinafter in this subsection referred to as a "Veterans' Administration health-care facility") would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the results of a study described in paragraph (4) of this subsection, may, in the exercise of the Administrator's sole discretion but subject to paragraph (2) of this subsection, enter into a contract as a result of which the activity would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government.

(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if responsive bids are received from at least two responsible, financially autonomous bidders and the Administrator determines—

(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

(B) that the quantity and quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

(3) The provisions of paragraph (1) of this subsection do not apply—

(A) to a contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or under section 1535 of title 31; or

(B) to a contract under section 213 or 4117 of this title if the Chief Medical Director determines that such contract is necessary in order to provide services to eligible veterans at a Veterans' Administration health-care facility that could not otherwise be provided at such facility.

(4) A study referred to in paragraph (1)(B) of this subsection is a study that—

(A) compares the cost of performing an activity at a Veterans' Administration health-care facility through Federal employees with the cost of performing such activity through a contractor of the Government;

(B) is based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Federal employees;

(C) with respect to the costs of performance of such activity through Federal employees, is based (to the maximum extent feasible) on actual cost factors of the Veterans' Administration for pay and retirement and other fringe benefits for the Federal employees who perform the activity; and

(D) takes into account (i) the costs to the Government (including severance pay) that would result from the separation of employees whose Federal employment may be terminated as a result of the Administrator entering into a contract described in paragraph (1)(B) of this subsection, and (ii) all costs to the Government associated with the contracting process.

(5) Prior to conducting a study described in paragraph (4) of this subsection, the Administrator shall (in a timely manner) submit to the appropriate committees of the Congress written notice of a decision to study the activity involved for possible performance by a contractor.

(6) If, after completion of a study described in paragraph (4) of this subsection, a decision is made to convert performance of the activity involved to contractor performance, the Administrator shall promptly submit to the appropriate committees of the Congress written notice of such decision and a report with respect to such conversion. Each such report shall include—

(A) a summary of the study described in paragraph (4) of this subsection with respect to such contract;

(B) a certification that the study itself is available to such committees and that the results of the study meet the requirements of paragraph (2)(A) of this subsection;

(C) a certification that the requirements of paragraph (2)(B) of this subsection would be met with respect to such contract and a summary of the information that supports such certification;

(D) if more than 25 jobs are affected, information showing the potential economic impact on the Federal employees affected and the potential economic impact on the local community and the Government of contracting for performance of such activity; and

(E) information showing the amount of the bid accepted for a contract for the performance of the activity and the cost of performance of such activity by Federal employees, together with the total estimated cost which the Government will incur because of the contract.

(7) Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Administrator shall submit a written report to Congress describing the extent to which activities at Veterans' Administration health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.

(Added P.L. 97-306(b); amended P.L. 98-160, § 702; P.L. 100-322, § 401(a).)

§ 5011. Sharing of Veterans' Administration and Department of Defense health-care resources

(a) The Administrator and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy may enter into agreements and contracts for the mutual use or exchange of use of hospital and domiciliary facilities, and such supplies, equipment, material, and other resources as may be needed to operate such facilities properly, except that the Administrator may not enter into an agreement that would result (1) in a permanent reduction in the total number of authorized Veterans' Administration hospital beds and nursing home beds to a level below the minimum number of such beds required by section 5010(a)(1) of this title to be authorized, or (2) in a permanent reduction in the total number of such beds operated and maintained to a level below the minimum number of such beds required by such section to be operated and maintained or in any way subordinate or transfer the operation of the Veterans' Administration to any other agency of the Government.

(Amended P.L. 87-314, P.L. 94-581, § 210(e)(6); P.L. 96-22, § 301(a); P.L. 97-174, § 3(a)(1), (2).)

(b)(1) In order to promote the sharing of health-care resources between the Veterans' Administration and the Department of Defense (hereinafter in this section referred to as the "agencies"), there is established an interagency committee to be known as the Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee (hereinafter in this subsection referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Chief Medical Director and such other officers and employees of the Veterans' Administration as the Chief Medical Director may designate; and

(B) the Assistant Secretary of Defense for Health Affairs (hereinafter in this section referred to as the "Assistant Secretary") and such other officers and employees of the Department of Defense as the Assistant Secretary may designate,

except that the size of the Committee shall be mutually determined by the Chief Medical Director and the Assistant Secretary. During fiscal years 1982 and 1983, the Chief Medical Director shall be the chairman of the Committee. During fiscal year 1984, the Assistant Secretary shall be the chairman of the Committee. Thereafter, the chairmanship of the Committee shall alternate each fiscal year between the Chief Medical Director and the Assistant Secretary. The agencies shall provide administrative support services for the Committee at a level sufficient for the efficient operation of the Committee and shall share the responsibility for the provision of such services on an equitable basis.

(3) In order to enable the Committee to make recommendations under paragraph (4) of this subsection, the Committee shall on a continuing basis—

(A) review existing policies, procedures, and practices relating to the sharing of health-care resources between the agencies;

(B) identify and assess further opportunities for the sharing of health-care resources between the agencies that would not, in the judgment of the Committee, adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency;

(C) identify changes in policies, procedures, and practices that would, in the judgment of the Committee, promote such sharing of health-care resources between the agencies;

(D) monitor plans of the agencies for the acquisition of additional health-care resources, including the location of new facilities and the acquisition of major equipment, in order to assess the potential impact of such plans on further opportunities for such sharing of health-care resources; and

(E) monitor the implementation of activities designed to promote the sharing of health-care resources between the agencies.

(4) Within nine months of the date of the enactment of this subsection and at such times thereafter as the Committee considers appropriate, the Committee shall make recommendations to the Administrator or the Secretary of Defense, or both, with respect to (A) changes in policies, procedures, and practices that the Committee has identified under paragraph (3)(C) of this subsection pertaining to the sharing of health-care resources described in such paragraph, and (B) such other matters as the Committee considers appropriate in order to promote such sharing of health-care resources.

(Added P.L. 97-174, § 3(a).)

(c)(1) After considering the recommendations made under subsection (b)(4) of this section, the Administrator and the Secretary of Defense shall jointly establish guidelines to promote the sharing of health-care resources between the agencies. Guidelines established under this subsection shall provide for such sharing consistent with the health-care responsibilities of the Veterans' Administration under this title and with the health-care responsibilities of the Department of Defense under chapter 55 of title 10 and so as not to adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency.

(2) Guidelines established under paragraph (1) of this subsection shall authorize the heads of individual medical facilities of the agencies to enter into health-care resources sharing agreements in accordance with subsection (d) of this section and shall include guidelines for such agreements.

(Added P.L. 97-174, § 3(a).)

(d)(1) The head of each medical facility of either agency is authorized to enter into sharing agreements with the heads of medical facilities of the other agency in accordance with guidelines established under subsection (c) of this section. Under any such agreement, an individual who is a primary beneficiary of one agency may be provided health care at a facility of the other agency that is a party to the sharing agreement.

(2) Each such agreement shall identify the health-care resources to be shared.

(3) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency (A) is on a referral basis from the facility of the other agency, and (B) does not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing agency.

(4) Each such agreement shall provide that a providing agency shall be reimbursed for the cost of the health-care resources provided under the agreement and that the rate for such reimbursement shall be determined in accordance with the methodology agreed to pursuant to subsection (e) of this section.

(5) Each proposal for an agreement under paragraph (1) of this subsection shall be submitted to the Chief Medical Director and the Assistant Secretary and shall be effective as an agreement in accordance with its terms (A) on the forty-sixth day after the receipt of such proposal by both such officials, unless earlier disapproved by either such official, or (B) if earlier approved by both such officials, on the date of such approval.

(Added P.L. 97-174, § 3(a).)

(e) Reimbursement under any sharing agreement entered into under subsection (d) of this section shall be based upon a methodology that is agreed upon by the Chief Medical Director and the Assistant Secretary and that provides appropriate flexibility to the heads of the facilities concerned to take into account local conditions and needs and the actual costs to the providing agency's facility of the health-care resources provided. Any funds received through such a reimbursement shall be credited to funds that have been allotted to the facility that provided the care or services.

(Added P.L. 97-174, § 3(a).)

(f) At the time the President's Budget is transmitted to Congress in any year pursuant to section 1105 of title 31, the Administrator and the Secretary of Defense shall submit a joint report to Congress on the implementation of this section during the fiscal year that ended during the previous calendar year. Each such report shall include—

(1) the guidelines prescribed under subsection (c) of this section (and any revision of such guidelines);

(2) the assessment of further opportunities identified under clause (B) of subsection (b)(3) of this section for sharing of health-care resources between the agencies;

(3) any recommendation made under subsection (b)(4) of this section during such fiscal year;

(4) a review of the sharing agreements entered into under subsection (d) of this section and a summary of activities under such agreements during such fiscal year;

(5) a summary of other planning and activities involving either agency in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year; and

(6) such recommendations for legislation as the Administrator and the Secretary consider appropriate to facilitate the sharing of health-care resources between the agencies.

(Added P.L. 97–174, § 3(a); amended P.L. 97–452, § 2(e).)

(g) For the purposes of this section:

(1) The term "beneficiary" means a person who is a primary beneficiary of the Veterans' Administration or of the Department of Defense.

(2) The term "direct health care" means health care provided to a beneficiary in a medical facility operated by the Veterans' Administration or the Department of Defense.

(3) The term "head of a medical facility" (A) with respect to a medical facility of the Veterans' Administration, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

(4) The term "health-care resource" includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 601 of this title, any other health-care service, and any health-care support or administrative resource.

(5) The term "primary beneficiary" (A) with respect to the Veterans' Administration means a person who is eligible under this title (other than under section 611(b) or 613 or subsection (d) of this section) or any other provision of law for care or services in Veterans' Administration medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

(6) The term "providing agency" means the Veterans' Administration, in the case of care or services furnished by a facility of the Veterans' Administration, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.

(Added P.L. 97–174, § 3(a).)

§ 5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Administrator may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Veterans' Administration with the exception of veterans with service-connected disabilities.

(2) For the purposes of this section, the terms "hospital care", "nursing home care", and "medical services" have the meanings given such terms by sections 601(5), 101(28), and 601(6) of this title, respectively.

(Added P.L. 97-174, § 4(a).)

(b)(1) During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Veterans' Administration facility under subsection (f) or (g) of section 612 of this title, in a case in which the delay involved in furnishing such care or services at such Veterans' Administration facility or at any other Veterans' Administration facility reasonably accessible to the veteran would, in the judgment of the Chief Medical Director, be likely to result in a deterioration of such condition; and

(B) hospital care for a veteran who—

(i) is receiving hospital care under section 610 of this title; or

(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Veterans' Administration facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

(Added P.L. 97-174, § 4(a).)

(c)(1) The cost of any care or services provided by the Veterans' Administration under subsection (a) of this section shall be reimbursed to the Veterans' Administration by the Department of Defense at such rates as may be agreed upon by the Administrator and the Secretary of Defense based on the cost of the care or services provided.

(2) Amounts received under this subsection shall be credited to funds allotted to the Veterans' Administration facility that provided the care or services.

(Added P.L. 97-174, § 4(a).)

(d)(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives.

(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within thirty days after the modification is agreed to.

(Added P.L. 97-174, § 4(a).)

(e) The Administrator shall prescribe regulations to govern any exercise of the authority of the Administrator under subsections (a) and (b) of this section and of the Chief Medical Director under subsection (b)(2)(A) of this section.

(Added P.L. 97-174, § 4(a).)

(f) Within thirty days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such thirty-day period as is reasonably practicable), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Administrator shall report within ninety days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used.

(Added P.L. 97-174, § 4(a).)

§ 5012. Partial relinquishment of legislative jurisdiction

The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under the supervision or control of the Administrator are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.

(Amended P.L. 89-785, § 202(a); P.L. 93-82, § 302(2); P.L. 94-581, § 210(e)(7); P.L. 96-22, § 301(a).)

§ 5013. Property formerly owned by National Home for Disabled Volunteer Soldiers

If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United

States, by gift, purchase, cession, or otherwise, absolute title to, and complete jurisdiction over, all such property.

(Amended P.L. 94–581, § 210(e)(8); P.L. 96–22, § 301(a).)

§ 5014. Use of federally owned facilities; use of personnel

(a) The Administrator, subject to the approval of the President, may use as medical facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Veterans' Administration upon the request of the Administrator.

(Amended P.L. 94–581, § 210(e)(9); P.L. 96–22, § 301(a).)

(b) The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in the construction and alteration of medical facilities, and the President may employ for such purposes individuals and agencies not connected with the Government, if in the opinion of the President such is desirable, at such compensation as the President may consider reasonable.

(Added P.L. 96–22, § 301(a).)

§ 5015. Acceptance of certain property

The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of disabled persons, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. The President may designate which agency of the Federal Government shall have the control and management of any property so accepted.

(Added P.L. 96–22, § 301(a).)

§ 5016. Nursing home revolving fund

(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

(Added P.L. 100-322, § 205(a).)

SUBCHAPTER II—PROCUREMENT AND SUPPLY

§ 5021. Revolving supply fund

(a) The revolving supply fund established for the operation and maintenance of a supply system for the Veterans' Administration (including procurement of supplies, equipment, and personal services and the repair and reclamation of used, spent, or excess personal property) shall be—

(1) available without fiscal year limitations for all expenses necessary for the operation and maintenance of such supply system;

(2) reimbursed from appropriations for the cost of all services, equipment, and supplies furnished, at rates determined by the Administrator on the basis of estimated or actual direct cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved) and indirect cost; and

(3) credited with advances from appropriations for activities to which services or supplies are to be furnished, and all other receipts resulting from the operation of the fund, including property returned to the supply system when no longer required by activities to which it had been furnished, the proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.

(Amended P.L. 87-314; P.L. 96-330, § 402(a).)

(b) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the fund.

(c) The Administrator is authorized to capitalize, at fair and reasonable values as determined by the Administrator, all supplies and materials and depot stocks of equipment on hand or on order.

(Amended P.L. 94-581, § 210(e)(6).)

§ 5022. Authority to procure and dispose of property and to negotiate for common services

(a)(1) The Administrator may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under the Administrator's control. Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of the Administrator's intention to do so in the newspaper of the community in which the lands or buildings to be leased are located. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(2)(A) Except as provided in paragraph (3) of this subsection, the Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.

(3)(A) Subject to subparagraph (B) of this paragraph, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (E) of the paragraph which the Administrator determines to be excess to the needs of the Veterans' Administration.

(B) A transfer of real property may not be made under this paragraph unless—

(i) the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 641 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

(C) A transfer of real property may not be made under this paragraph until—

(i) the Administrator submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and

(ii) a period of 90 consecutive days elapses after the report is received by those committees.

(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.

(Amended P.L. 93-82, § 302(2); P.L. 94-581, § 210(e)(7)(A); P.L. 96-330, § 403(a); P.L. 97-295, § 4(91)(A); P.L. 98-160, § 401(1); P.L. 100-322, § 421(a); P.L. 100-687, § 1505.)

(b) The Administrator may, for the purpose of extending benefits to veterans and dependents, and to the extent the Administrator deems necessary, procure the necessary space for administrative purposes by lease, purchase, or construction of buildings, or by condemnation or declaration of taking, pursuant to law.

(Amended P.L. 94-581, § 210(e)(7)(B); P.L. 96-22, § 301(b)(2).)

(c) The Administrator may procure laundry services, and other common services as specifically approved by the Administrator from nonprofit, tax-exempt educational, medical or community institutions, without regard to the requirements of section 302(c) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)), whenever such services are not reasonably available from private commercial sources. Notwithstanding this exclusion, the provisions of section 304 of that Act (41 U.S.C. 254) shall apply to procurement authorized by this subsection.

(Added P.L. 89-785, § 202(a); amended P.L. 94-581, § 210(e)(7)(C); P.L. 97-295, § 4(91)(B).)

(d) Real property under the jurisdiction of the Administrator may not be declared excess by the Administrator and disposed of by the General Services Administration or any other entity of the Federal Government unless the Administrator determines that the property is no longer needed by the Veterans' Administration in carrying out its functions.

(Added P.L. 98-160, § 401(2).)

§ 5023. Procurement of prosthetic appliances

The Administrator may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Administrator may determine to be proper, without regard to any other provision of law.

(Amended P.L. 94-581, § 210(e)(9).)

§ 5024. Grant of easements in Government-owned lands

The Administrator, whenever the Administrator deems it advantageous to the Government and upon such terms and conditions as the Administrator deems advisable, may grant on behalf of the United States to any State, or any agency or political subdivision thereof, or to any public-service company, easements in and rights-of-way over lands belonging to the United States which are under the Administrator's supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Administrator deems necessary or desirable, is hereby ceded to the State in which the land is located. The Administrator may accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as the Administrator may deem necessary or desirable over the land so acquired. Any such easement or right-of-way shall be terminated upon abandonment or nonuse of the same and all right, title, and interest in the land covered thereby shall thereupon revert to the United States or its assignee.

(Amended P.L. 94–581, § 210(e)(9).)

§ 5025. Procurement of health-care items

(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

(Added P.L. 100–322, § 403(a)(1).)

(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe, or

(iii) procurement under a local contract is demonstrably more cost-effective for the item.

(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration

(d)(1) Not later than December 1 of each year (beginning in 1992), the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

(2) No later than February 1 of each year (beginning in 1993), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

(3) Not later than February 1 of each year from 1989 through 1992, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. The first such report shall contain information showing the precentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration during fiscal year 1988 that were procured through local contracts. The other reports under this paragraph shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration, and by each Veterans' Administration medical center, during the fiscal year covered by the report that were purchased through local contracts and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred.

(Added P.L. 100–322, § 403(a)(1); amended P.L. 100–687, § 1507(b).)

(e) For the purposes of this section:

(1) The term "health-care item" includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65 or 66. Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73. Such term does not include perishable items.

(2) The term "local contract" means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

(3) The term "emergency procurement" means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for an item.

(Added P.L. 100-322, § 403(a)(1); amended P.L. 100-687, § 1507(c).)

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

§ 5031. Definitions

For the purpose of this subchapter—

(1) The veteran population of each State shall be determined on the basis of the latest figures certified by the Department of Commerce.

(2) The term "State" does not include any possession of the United States.

(3) The term "construction" means the construction of new domiciliary or nursing home buildings, the expansion, remodeling, or alteration of existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes, and the provision of initial equipment for any such buildings.

(4) The term "cost of construction" means the amount found by the Administrator to be necessary for a construction project, including architect fees, but excluding land acquisition costs.

(Added P.L. 88-450, § 4(a); amended P.L. 94-581, § 206(b); P.L. 95-62, § 3(1), (2); P.L. 99-576, § 224(d).)

§ 5032. Declaration of purpose

The purpose of this subchapter is to assist the several States to construct State home facilities (or to acquire facilities to be used as State home facilities) for furnishing domiciliary or nursing home care to veterans, and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.

(Added P.L. 88-450, § 4(a); amended P.L. 94-581, § 206(b); P.L. 95-62, § 3(3); P.L. 98-528, § 105.)

§ 5033. Authorization of appropriations

(a) There are hereby authorized to be appropriated such sums as are necessary to carry out this subchapter through September 30,

1989. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

(Added P.L. 88-450, § 4(a); amended P.L. 90-432, § 2; P.L. 93-82, § 403(c); P.L. 95-62, § 3(4); P.L. 96-151, § 101(a); P.L. 97-251, § 8; P.L. 99-576, § 224(a).)

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

(Added P.L. 88-450, § 4(a); amended P.L. 95-62, § 3(4).)

§ 5034. General regulations

Within six months after the date of enactment of this section or any amendment to it with respect to such amendment, the Administrator shall prescribe the following by regulation:

(1) The number of beds required to provide adequate nursing home care to veterans residing in each State.

(2) General standards of construction, repair, and equipment for facilities constructed or acquired with assistance received under this subchapter.

(3) General standards for the furnishing of care in facilities which are constructed or acquired with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title. The Administrator may inspect any State facility constructed or acquired with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.

(Added P.L. 88-450, § 4(a); amended P.L. 89-311, § 7(b); P.L. 93-82, § 403(d); P.L. 94-581, §§ 107(b), 206(b); P.L. 95-62, § 3(5), (6); P.L. 98-528, § 105.)

§ 5035. Applications with respect to projects; payments

(a) After regulations have been prescribed by the Administrator under section 5034 of this title, any State desiring to receive assistance for a project for construction of State home facilities (or acquisition of a facility to be used as a State home facility) must submit to the Administrator an application. Such application shall set forth—

(1) the amount of the grant requested with respect to such project which may not exceed 65 percent of the estimated cost of construction (or of the estimated cost of facility acquisition and construction) of such project,

(2) a description of the site for such project,

(3) plans and specifications for such project in accordance with regulations prescribed by the Administrator pursuant to section 5034(2) of this title,

(4) reasonable assurance that upon completion of such project the facilities will be used principally to furnish to veterans the level of care for which such application is made and

that not more than 25 percent of the bed occupancy at any one time will consist of patients who are not receiving such level of care as veterans,

(5) reasonable assurance that title to such site is or will be vested solely in the applicant, a State home, or another agency or instrumentality of the State,

(6) reasonable assurance that adequate financial support will be available for the construction of the project (or for facility acquisition and construction of the project) by July 1 of the fiscal year for which the application is approved and for its maintenance and operation when complete,

(7) reasonable assurance that the State will make such reports in such form and containing such information as the Administrator may from time to time reasonably require, and give the Administrator, upon demand, access to the records upon which such information is based,

(8) reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5) (known as the Davis-Bacon Act), and

(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.

(Added P.L. 88-450, § 4(a); amended P.L. 93-82, § 403(e); P.L. 94-581, § 206(b); P.L. 95-62, § 3(7), (8); P.L. 97-295, § 4(92); P.L. 98-528, § 105; P.L. 99-166. § 205(a).)

(b)(1) Upon receipt of an application for a grant under subsection (a) of this section, the Administrator—

(A) shall determine whether the application meets the requirements of this section and of the regulations prescribed under section 5034 of this title;

(B) shall notify the State submitting the application whether the application conforms with those requirements and, if it does not, of the actions necessary to bring the application into conformance with those requirements; and

(C) shall determine the priority of the project described in the application in accordance with the provisions of this subsection.

(2) Subject to paragraphs (3) and (5)(C) of this subsection, the Administrator shall accord priority to applications in the following order:

(A) An application from a State that has made sufficient funds available for the construction or acquisition of the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State to make such funds available for such purpose.

(B) An application from a State that does not have a State home facility constructed or acquired with assistance under this subchapter (or for which such a grant has been made).

(C) An application from a State which the Administrator determines, in accordance with criteria and procedures specified in regulations which the Administrator shall prescribe, has a greater need for nursing home or domiciliary beds than other States from which applications are received.

(D) An application that meets such other criteria as the Administrator determines are appropriate and has established in regulations.

(3) In according priorities to projects under paragraph (2) of this subsection, the Administrator—

(A) shall accord priority only to projects which would involve construction or acquisition of either nursing home or domiciliary buildings; and

(B) may not accord any priority to a project which would expand a State's capacity to furnish hospital care in a State home.

(4) The Administrator shall establish a list of approved projects (including projects that have been conditionally approved under paragraph (6) of this subsection), in the order of their priority, as of August 15 of each year. The Administrator shall award grants in the order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made.

(5)(A) The Administrator shall defer approval of an application that otherwise meets the requirements of this section if the State submitting the application does not, by the July 1 deadline (as defined in subparagraph (D) of this paragraph), demonstrate to the satisfaction of the Administrator that the State has provided adequate financial support for construction of the project.

(B) In a case in which approval of an application is deferred under subparagraph (A) of this paragraph, the Administrator shall select for award of a grant or grants under this subsection an application or applications which would not have been approved during the fiscal year but for the deferral and to which the Administrator accords the highest priority under paragraph (2) of this subsection.

(C) An application deferred in accordance with the requirements of this paragraph shall be accorded priority in any subsequent fiscal year ahead of applications that had not been approved before the first day of the fiscal year in which the deferred application was first approved.

(D) For the purposes of this paragraph, the term "July 1 deadline" means July 1 of the fiscal year in which the State is notified by the Administrator of the availability of funding for a grant for such project.

(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.

(Added P.L. 88-450, § 4(a); amended P.L. 93-82, § 403(e); P.L. 94-581, §§ 206(b), 210(e)(10); P.L. 95-62, § 3(9); P.L. 97-295, § 4(92); P.L. 98-528, § 105; P.L. 99-166, § 205(b); P.L. 99-576, § 224(b); P.L. 100-322, § 206(a), (b).)

(c) No application submitted to the Administrator under this section shall be disapproved until the Administrator has afforded the applicant notice and an opportunity for a hearing.

(Added P.L. 88-450, § 4(a); amended P.L. 95-62, § 3(12).)

(d) The amount of a grant under this subchapter shall be paid to the applicant or, if designated by the applicant, the State home for which such project is being carried out or any other agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of the project as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved.

(Added P.L. 88-450, § 4(a); amended P.L. 93-82, § 403(e); P.L. 95-62, § 3(11); P.L. 97-295, § 4(92); P.L. 98-528, § 105; P.L. 99-576, § 224(c).)

(e) Any amendment of any application, whether or not approved, shall be subject to approval in the same manner as an original application.

§ 5036. Recapture provisions

If, within 20 years after completion of any project with respect to which a grant has been made under this subchapter (except that the Administrator, pursuant to regulations which the Administrator shall prescribe, may at the time of such grant provide for a shorter period than 20, but not less than seven years, based on the magnitude of the project and the grant amount involved, in the case of the acquisition, expansion, remodeling, or alteration of existing facilities), such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home, or hospital care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 percent of the then value of such project (but in no event an amount greater than the amount of assistance provided under this subchapter), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated.

(Added P.L. 88-450, § 4(a); amended P.L. 93-82, § 403(f); P.L. 94-581, § 206(b); P.L. 95-62, § 3(13); P.L. 97-295, § 4(92); P.L. 98-528, § 105.)

§ 5037. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any State home for which facilities are constructed or acquired with assistance received under this subchapter.

(Added P.L. 88-450, § 4(a); amended P.L. 98-528, § 105.)

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

§ 5051. Statement of congressional purpose

It is the purpose of this subchapter to improve the quality of hospital care and other medical service provided veterans under this title, by authorizing the Administrator to enter into agreements with medical schools, hospitals, and research centers throughout the country in order to receive from and share with such medical schools, hospitals, and research centers the most advanced medical techniques and information, as well as certain specialized medical resources which otherwise might not be feasibly available or to effectively utilize other medical resources with the surrounding medical community, without diminution of services to veterans. Among other things, it is intended, by these means, to strengthen the medical programs at those Veterans' Administration hospitals which are located in small cities or rural areas and thus are remote from major medical centers.

(Added P.L. 89-785, § 203.)

§ 5052. Definitions

For the purposes of this subchapter—

(a) The term "research center" means an institution (or part of an institution), the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

(b) The term "specialized medical resources" means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

(c) The term "hospital", unless otherwise specified, includes any Federal, State, local, or other public or private hospital.

(Added P.L. 89-785, § 203.)

§ 5053. Specialized medical resources

(a) To secure certain specialized medical resources which otherwise might not be feasibly available, or to effectively utilize certain other medical resources, the Administrator may, when the Administrator determines it to be in the best interest of the prevailing standards of the Veterans' Administration medical care program, make arrangements, by contract or other form of agreement, as set forth in clauses (1) and (2) below, between Veterans' Administration hospitals and other hospitals (or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions) or medical schools or clinics in the medical community:

(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Veterans' Administration health care facility; or

(2) for the mutual use, or exchange of use, of specialized medical resources in a Veterans' Administration health care facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity.

The Administrator may determine the geographical limitations of a medical community as used in this section.

(Added P.L. 89-785, § 203; amended P.L. 91-496, § 4; P.L. 93-82, § 303; P.L. 94-581, §§ 206(c), 210(e)(11); P.L. 96-151, § 304.)

(b) Arrangements entered into under this section shall provide for reciprocal reimbursement based on a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(Added P.L. 89-785, § 203.)

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Veterans' Administration health care facility, and provisions of this title applicable to persons receiving hospital care or medical services in a Veterans' Administration health care facility shall apply to veterans treated hereunder.

(Added P.L. 89-785, § 203; amended P.L. 94-581, § 206(c)(2).)

(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

(1) rates prescribed by the Secretary of Health and Human Services, after consultation with the Administrator, and

(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(Added P.L. 94-581, § 115(a)(1); amended P.L. 97-295, § 4(95)(A); P.L. 98-160, § 702.)

(e) The Administrator shall submit to the Congress not more than 60 days after the end of each fiscal year a report on the activities carried out under this section. Each report shall include—

(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

(2) recommendations for the improvement or more effective administration of such activitives.

(Added P.L. 99-576, § 231(c).)

§ 5054. Exchange of medical information

(a) The Administrator is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Administrator shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Veterans' Administration hospitals and major medical centers. Such agreements shall be utilized by the Administrator to the maximum extent practicable to create, at each Veterans' Administration hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(Added P.L. 89-785, § 203.)

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Veterans' Administration hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community (including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans). The Administrator may charge a fee for such services (on annual or like basis) at rates which the Administrator determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Administrator in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(Added P.L. 89-785, § 203; amended P.L. 94-424, § 1(1); P.L. 94-581, §§ 206(d), 210(e)(12); P.L. 97-251, § 9.)

(c) The Administrator is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Veterans' Administration health-care facility located in an area remote from major academic health centers.

(Added P.L. 96-151, § 102(a).)

§ 5055. Pilot programs; grants to medical schools

(a) The Administrator may establish an Advisory Subcommittee on Programs for Exchange of Medical Information, of the Special Medical Advisory Group, established under section 4112 of this title, to advise the Administrator on matters regarding the administration of this section and to coordinate these functions with other research and education programs in the Department of Medicine and Surgery. The Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program shall be an ex officio member of this Subcommittee.

(Added P.L. 89-785, § 203; amended P.L. 94-581, §§ 206(e), 210(e)(13).)

(b) The Administrator, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section 5054 of this title. Such grants may be used for the employment of personnel, the construction of facilities, the purchasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

(Added P.L. 89-785, § 203.)

(c)(1) There is hereby authorized to be appropriated an amount not to exceed $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 and for each of the three succeeding fiscal years, for the purpose of developing and carrying out medical information programs under this section on a pilot program basis and for the grants authority in subsection (b) of this section. Pilot programs authorized by this subsection shall be carried out at Veterans' Administration hospitals in geographically dispersed areas of the United States.

(2) Funds authorized under this section shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent that such cost is determined by the Administrator to be incident to research, training, or demonstration activities carried out under this section.

(Added P.L. 89-785, § 203; amended P.L. 92-69; P.L. 94-424, § 1(2); P.L. 96-151, § 102(b).)

(d) The Administrator, after consultation with the Subcommittee shall prescribe regulations covering the terms and conditions for making grants under this section.

(Added P.L. 89-785, § 203.)

(e) Each recipient of a grant under this section shall keep such records as the Administrator may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(Added P.L. 89-785, § 203.)

(f) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient of any grant under this section which are pertinent to any such grant.

(Added P.L. 89-785, § 203.)

§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974

The Administrator and the Secretary of Health and Human Services shall, to the maximum extent practicable, coordinate programs carried out under this subchapter and programs carried out under part F of title XVI of the Public Health Service Act (42 U.S.C. 300 et seq.).

(Added P.L. 89-785, § 203; amended P.L. 94-581, § 115(a)(2)(B); P.L. 97-295; §§ 4(93), (95)(A).)

[§ 5057, Repealed. P.L. 99-576, § 231(c).]

CHAPTER 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

Sec.
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5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training.

§ 5070. Coordination with public health programs; administration

(a) The Administrator and the Secretary of Health and Human Services shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried out under titles VII, VIII, and IX of the Public Health Service Act (42 U.S.C. 292 et seq.).

(Added P.L. 92-541, § 2(a); amended P.L. 97-295, § 4(94)(A).)

(b) The Administrator may not enter into any agreement under subchapter I of this chapter after September 30, 1979.

(Added P.L. 92-541, § 2(a); amended P.L. 96-151, § 103(a).)

(c) The Administrator, after consultation with the special medical advisory committee established pursuant to section 4112(a) of this title, shall prescribe regulations covering the terms and conditions for entering into agreements and making grants under this chapter.

(Added P.L. 92-541, § 2(a).)

(d) Payments made pursuant to grants under this chapter may be made in installments, and either in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Administrator may determine.

(Added P.L. 92-541, § 2(a).)

(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title [1] shall not apply with respect to any lease entered into pursuant to this chapter, but no such lease may be for a period of more than 50 years. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.

(Added P.L. 94-581, § 116(1); amended P.L. 96-330, § 403(b); P.L. 97-295, § 4(94)(B).)

(f) In making grants under this chapter, the Administrator shall give special consideration to applications from institutions which provide reasonable assurances, which shall be included in the grant agreement, that priority for admission to health manpower and training programs carried out by such institutions will be given to otherwise qualified veterans who during their military service acquired medical military occupation specialties, and that among such qualified veterans those who served during the Vietnam era and those who are entitled to disability compensation under laws administered by the Veterans' Administration or whose discharge or release was for a disability incurred or aggravated in line of duty will be given the highest priority. In carrying out this chapter and section 4101(b) of this title in connection with health manpower and training programs assisted or conducted under this title or in affiliation with a Veterans' Administration medical facility, the Administrator shall take appropriate steps to encourage the institutions involved to afford the priorities described in the first sentence of this subsection and to advise all qualified veterans with such medical military occupation specialties of the steps the Administrator has taken under this subsection and the opportunities available to them as a result of such steps.

(Added P.L. 94-541, § 2(a); amended P.L. 94-581, §§ 116(1), 210(f)(1).)

(g)(1) Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

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[1] So in original. Section 5012(a) of this title was renumbered section 5022(a) of this title by P.L. 96-22.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any assistance under this chapter which are pertinent to such assistance.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 116(a).)

(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.

(Added P.L. 94-581, § 116(2).)

SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

§ 5071. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to implement a pilot program under which the Administrator may provide assistance in the establishment of new State medical schools at colleges or universities which are primarily supported by the States in which they are located if such schools are located in proximity to, and operated in conjunction with, Veterans' Administration medical facilities.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 210(f)(2).)

§ 5072. Authorization of appropriations

(a) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants pursuant to section 5073 of this title.

(Added P.L. 92-541, § 2(a).)

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(Added P.L. 92-541, § 2(a).)

§ 5073. Pilot program assistance

(a) Subject to subsection (b) of this section, the Administrator may enter into an agreement to provide to any college or university which is primarily supported by the State in which it is located (hereinafter in this subchapter referred to as "institution") the following assistance to enable such institution to establish a new medical school:

(1) The extension, alteration, remodeling, improvement, or repair of buildings and structures (including, as part of a lease made under paragraph (1), the provision of equipment) provided under paragraph (1) to the extent necessary to make them suitable for use as medical school facilities.

(2) The making of grants to assist the institution to pay the cost of the salaries of the faculty of such school during the initial 12-month period of operation of the school and the next six such 12-month periods, but payment under this paragraph may not exceed an amount equal to—

(A) 90 percent of the cost of faculty salaries during the first 12-month period of operation,

(B) 90 percent of such cost during the second such period,

(C) 90 percent of such cost during the third such period,

(D) 80 percent of such cost during the fourth such period,

(E) 70 percent of such cost during the fifth such period,

(F) 60 percent of such cost during the sixth such period, and

(G) 50 percent of such cost during the seventh and eighth such periods.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 116(3); P.L. 97-15; P.L. 99-576, § 702(16).)

(b)(1) The Administrator may not enter into any agreement under subsection (a) of this section unless the Administrator finds, and the agreement includes satisfactory assurances, that—

(A) there will be adequate State or other financial support for the proposed school;

(B) the overall plans for the school meet such professional and other standards as the Administrator deems appropriate;

(C) the school will maintain such arrangements with the Veterans' Administration medical facility with which it is associated (including but not limited to such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in the carrying out of the mission of the medical facility and the school; and

(D) on the basis of consultation with the appropriate accreditation body or bodies approved for such purpose by the Secretary of Education, there is reasonable assurance that, with the aid of an agreement under subsection (a) of this section, such school will meet the accreditation standards of such body or bodies within a reasonable time.

(2) Any agreement entered into by the Administrator under this subchapter shall contain such terms and conditions (in addition to those imposed pursuant to section 5070(e) of this title and subsec-

tion (b)(1) of this section) as the Administrator deems necessary and appropriate to protect the interest of the United States.

(c) If the Administrator, in accordance with such regulations as the Administrator shall prescribe, determines that any school established with assistance under this chapter—

(1) is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

(2) is accredited but fails substantially to carry out the terms of the agreement entered into under this chapter; or

(3) is no longer operated for the purpose for which such assistance was granted,

the Administrator shall be entitled to recover from the recipient of assistance under this chapter the facilities of such school which were established with assistance under this chapter. In order to recover such facilities the Administrator may bring an action in the district court of the United States for the district in which such facilities are situated.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, §§ 116(4), 210(f)(3); P.L. 97-295, § 4(95)(B).)

§ 5074. Limitations

The Administrator may not use the authority under this subchapter to assist in the establishment of more than eight new medical schools. Such schools shall be located in geographically dispersed areas of the United States.

(Added P.L. 92-541, § 2(a).)

SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

§ 5081. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to medical schools which have maintained affiliations with the Veterans' Administration in order to assist such schools to expand and improve their training capacities and to cooperate with institutions of the types assisted under subchapter III of this chapter in carrying out the purposes of such subchapter.

(Added P.L. 92-541, § 2(a).)

§ 5082. Authorization of appropriations

(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1973; a like sum for each of the six succeeding fiscal years; $15,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; and $30,000,000 for the fiscal year ending September 30, 1982.

(Added P.L. 92-541, § 2(a); amended P.L. 96-151, § 103(b)(1).)

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(Added P.L. 92-541, § 2(a).)

(c) There is authorized to be appropriated for fiscal year 1979 to carry out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, before May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator before May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts for which applications had been so approved have been obligated under such subchapter I.

(Added P.L. 95-520, § 7.)

§ 5083. Grants

(a) Any medical school which is affiliated with the Veterans' Administration under an agreement entered into pursuant to this title may apply to the Administrator for a grant under this subchapter to assist such school, in part, to carry out, through the Veterans' Administration medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Administrator. Any such application shall contain such information in such detail as the Administrator deems necessary and appropriate.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 207.)

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(Added P.L. 92–541, § 2(a); amended P.L. 94–581, § 210(f)(4); P.L. 96–151, § 103(b)(2).)

SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

§ 5091. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Veterans' Administration, designed to coordinate, improve, and expand the training of professional and technical allied health and paramedical personnel, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities, so as to improve and expand allied and other health manpower utilization.

(Added P.L. 92–541, § 2(a).)

§ 5092. Definition

For the purpose of this subchapter, the term "eligible institution" means any nonprofit educational facility or other public or nonprofit institution, including universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions for the training or education of allied health or other health personnel affiliated with the Veterans' Administration for the conduct of or the providing of guidance for education and training programs for health manpower.

(Added P.L. 92–541, § 2(a).)

§ 5093. Grants

(a) Any eligible institution may apply to the Administrator for a grant under this subchapter to assist such institution to carry out through the Veterans' Administration medical facility with which it is, or will become affiliated, educational and clinical projects and programs, matching the clinical requirements of the facility to the health manpower training potential of the eligible institution, for the expansion and improvement of such institution's capacity to train health manpower, including physicians assistants, nurse practitioners, and other new types of health personnel in furtherance of the purposes of this subchapter. Any such application shall contain a plan to carry out such projects and programs and such other information in such detail as the Administrator deems necessary and appropriate.

(Added P.L. 92–541, § 2(a).)

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 210(f)(5); P.L. 96-330, § 405.)

SUBCHAPTER IV—EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY

§ 5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training

Out of funds appropriated to the Veterans' Administration pursuant to the authorization in section 5082 of this title, the Administrator may expend such sums as the Administrator deems necessary, not to exceed 30 per centum thereof, for (1) the necessary extension, expansion, alteration, improvement, remodeling, or repair of Veterans' Administration buildings and structures (including provision of initial equipment, replacement of obsolete or worn-out equipment, and, where necessary, addition of classrooms, lecture facilities, laboratories, and other teaching facilities) to the extent necessary to make them suitable for use for health manpower education and training in order to carry out the purpose set forth in section 4101(b), and (2) special allocations to Veterans' Administration hospitals and other medical facilities for the development or initiation of improved methods of education and training which may include the development or initiation of plans which reduce the period of required education and training for health personnel but which do not adversely affect the quality of such education or training.

(Added P.L. 92-541, § 2(a); amended P.L. 94-581, § 210(f)(6).)

CHAPTER 83—ACCEPTANCE OF GIFTS AND BEQUESTS

Sec.
5101. Authority to accept gifts, devises, and bequests.
5102. Legal proceedings.
5103. Restricted gifts.
5104. Disposition of property.
5105. Savings provision.

§ 5101. Authority to accept gifts, devises, and bequests

The Administrator may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated the intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated the intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof.

(Amended P.L. 99-576, § 701(89).)

§ 5102. Legal proceedings

For the purpose of acquiring title to and possession of any property which the Administrator is by this chapter authorized to accept, the Administrator may initiate and appear in any appropriate legal proceedings, and take such steps therein or in connection therewith as in the Administrator's discretion may be desirable and appropriate to reduce said property to possession. The Administrator may incur such expenses incident to such proceedings as the Administrator deems necessary or appropriate, which shall be paid as are other administrative expenses of the Veterans' Administration. All funds received by devise, bequest, gift, or otherwise, for the purposes contemplated in this chapter, including net proceeds of sales authorized by this chapter, shall be deposited with the Treasurer of the United States to the credit of the General Post Fund.

(Amended P.L. 99-576, § 701(90).)

§ 5103. Restricted gifts

Disbursements from the General Post Fund shall be made on orders by and within the discretion of the Administrator and in the manner prescribed in section 5223 of this title; except that (1) if the testator or donor has directed or shall direct that the devise, bequest, or gift be devoted to a particular use authorized by this chapter, the same, less expenses incurred, or the net proceeds thereof, shall be used or disbursed as directed, except that a precatory direction shall be fulfilled only insofar as may be proper or practicable; and (2) if the testator or donor shall have indicated the desire that the devise, bequest, or gift shall be for the benefit of persons in hospitals or homes, or other institutions operated by the United States but under the jurisdiction of an official other than the Administrator, the same, less expenses incurred, or the net proceeds thereof which may come into possession of the Administrator, shall be disbursed by transfer to the governing authorities of such institution, or otherwise, in such manner as the Administrator may determine, for the benefit of the persons in the institution indicated by the testator or donor, for proper purposes, as nearly as practicable in conformity with such desire of the testator or donor.

(Amended P.L. 99-576, § 701(91).)

§ 5104. Disposition of property

If the Administrator receives any property other than moneys as contemplated by this chapter, the Administrator is authorized in the Administrator's discretion to sell, assign, transfer, and convey the same, or any interest therein claimed by virtue of such devise, bequest, or gift, for such price and upon such terms as the Administrator deems advantageous (including consent to partition of realty and compromise of contested claim of title) and the Administrator's assignment, deed, or other conveyance of any such property, executed in the name and on behalf of the United States, shall be valid to pass to the purchaser thereof such title to said property as the United States, beneficially or as trustee of the General Post Fund, may have by virtue of any such devise, bequest, or gift, and the proceedings incident thereto, subject to the conditions, limitations, and provisions of the instruments so executed by the Administrator.

(Amended P.L. 99-576, § 701(92).)

§ 5105. Savings provision

(a) Nothing contained in this chapter shall be construed to repeal or modify any law authorizing the acceptance of devises, bequests, or gifts to the United States for their own use and benefit or for any particular purpose specified by the donors or testators.

(b) Whenever the United States receives property and it appears that it is, or shall have been, the intention of the testator or donor that such devise, bequest, or gift be for the benefit of those persons described in section 5101 of this title, or any particular hospital or other institution operated primarily for their benefit, such property or the proceeds thereof shall be credited to the General Post Fund, and shall be used or disbursed in accordance with the provisions of this chapter.

CHAPTER 85—DISPOSITION OF DECEASED VETERANS' PERSONAL PROPERTY

SUBCHAPTER I—PROPERTY LEFT ON VETERANS' ADMINISTRATION FACILITY

Sec.
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SUBCHAPTER I—PROPERTY LEFT ON VETERANS' ADMINISTRATION FACILITY

§ 5201. Vesting of property left by decedents

(a) Personal property left by any decedent upon premises used as a Veterans' Administration facility, which premises are subject to the exclusive legislative jurisdiction of the United States and are within the exterior boundaries of any State or dependency of the United States, shall vest and be disposed of as provided in this subchapter, except that—

(1) if such person died leaving a last will and testament probated under the laws of the place of such person's domicile or under the laws of the State or dependency of the United States within the exterior boundaries of which such premises or a part thereof may be, the personal property of such decedent situated upon such premises shall vest in the person or persons entitled thereto under the provisions of such last will and testament; and

(2) if such person died leaving any such property not disposed of by a last will and testament probated in accord with the provisions of paragraph (1) such property shall vest in the persons entitled to take such property by inheritance under and upon the conditions provided by the law of the decedent's domicile. This paragraph shall not apply to property to which

the United States is entitled except where such title is divested out of the United States.

(Amended P.L. 99-576, § 701(93).)

(b) Any officer or employee of the United States in possession of any such property may deliver same to the executor (or the administrator with will annexed) who shall have qualified in either jurisdiction as provided in subsection (a)(1); or if none such then to the domiciliary administrator or to any other qualified administrator who shall demand such property. When delivery shall have been made to any such executor or administrator in accordance with this subsection, neither the United States nor any officer or employee thereof shall be liable therefor.

§ 5202. Disposition of unclaimed personal property

(a) Notwithstanding the provisions of section 5201 of this title, the Administrator may dispose of the personal property of such decedent left or found upon such premises as hereafter provided in this subchapter.

(b) If any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, upon such person's last admission to, or during such person's last period of maintenance in, a Veterans' Administration facility, has personal property situated on such facility and shall have designated in writing a person (natural or corporate) to receive such property when such veteran, dependent or survivor dies, the Administrator or employee of the Veterans' Administration authorized by the Administrator so to act, may transfer possession of such personal property to the person so designated. If there exists no person so designated by such veteran, dependent, or survivor or if the one so designated declines to receive such property, or failed to request such property within ninety days after the Veterans' Administration mails to such designate a notice of death and of the fact of such designation, a description of the property, and an estimate of transportation cost, which shall be paid by such designate if required under the regulations hereinafter mentioned, or if the Administrator declines to transfer possession to such designate, possession of such property may in the discretion of the Administrator or the Administrator's designated subordinate, be transferred to the following persons in the order and manner herein specified unless the parties otherwise agree in writing delivered to the Veterans' Administration namely, executor or administrator, or if no notice of appointment received, to the spouse, children, grandchildren, parents, grandparents, siblings of the veteran. If claim is made by two or more such relatives having equal priorities, as hereinabove prescribed, or if there are conflicting claims the Administrator or the Administrator's designee may in such case deliver the property either jointly or separately in equal values, to those equally entitled thereto or may make delivery as may be agreed upon by those entitled, or may in the discretion of the Administrator or the Administrator's designee withhold delivery from them and require the qualification of an administrator or executor of the veterans' estate and thereupon make delivery to such.

(Amended P.L. 94-581, § 208(a); P.L. 99-576, § 701(94).)

(c) If the property of any decedent is not so delivered or claimed and accepted the Administrator or the Administrator's designee may dispose of such property by public or private sale in accordance with the provisions of this subchapter and regulations prescribed by the Administrator.

(Amended P.L. 99-576, § 701(94).)

(d) All sales authorized by this subchapter shall be for cash upon delivery at the premises where sold and without warranty, express or implied. The proceeds of such sales after payment of any expenses incident thereto as may be prescribed by regulations, together with any other moneys left or found on a facility, not disposed of in accordance with this subchapter, shall be credited to the General Post Fund, National Homes, Veterans' Administration, a trust fund provided for in section 1321(a)(45) of title 31. In addition to the purposes for which such fund may be used under the existing law, disbursements may be made therefrom as authorized by the Administrator by regulation or otherwise for the purpose of satisfying any legal liability incurred by any employee in administering the provisions of this subchapter, including any expense incurred in connection therewith. Legal liability shall not exist when delivery or sale shall have been made in accordance with this subchapter.

(Amended P.L. 97-258, § 3(k)(9).)

(e) If, notwithstanding such sale, a claim is filed with the Administrator within five years after notice of sale as herein required, by or on behalf of any person or persons who if known would have been entitled to the property under section 5201 of this title or to possession thereof under this section, the Administrator shall determine the person or persons entitled under the provisions of this subchapter and may pay to such person or persons so entitled the proceeds of sale of such property, less expenses. Such payment shall be made out of the said trust fund, and in accord with the provisions of this section or section 5201 of this title. Persons under legal disability to sue in their own name may make claim for the proceeds of sale of such property at any time within five years after termination of such legal disability.

(f) Any such property, the sale of which is authorized under this subchapter and which remains unsold, may be used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator.

§ 5203. Notice of provisions of this subchapter

All persons having or bringing personal property on the premises of a Veterans' Administration facility shall be given reasonable notice of the provisions of this subchapter. In case of a mentally incompetent person, notice hereof shall be given the guardian or other person having custody or control of such person or, if none, to such person's nearest relative if known. The admission to or continued maintenance in such facility after reasonable notice of the provisions of this subchapter shall constitute consent to the provisions hereof. The death of any person on any such facility or the leaving of property thereon shall be prima facie evidence of a valid agreement for the disposition of such property in accordance with the provisions of this subchapter.

(Amended P.L. 99-576, § 701(95).)

§ 5204. Disposition of other unclaimed property

Any other unclaimed property found on the premises under the control of the Veterans' Administration shall be stored by the officer in charge of such premises and may be sold, used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator if the owner thereof fails to claim same within ninety days. If undisposed of, the same may be reclaimed by the owner, such person's personal representative or next of kin, upon payment of reasonable storage charges prescribed by regulations. If sold, the net proceeds thereof shall be credited to said post fund to be expended as other assets of such fund. The person who was entitled to such property, or such person's legal representative, or assignee, shall be paid the proceeds of sale thereof, less expenses if claim therefor be made within five years from the date of finding. If the owner shall have died intestate without creditors or next of kin surviving, such proceeds shall not be paid to such person's legal representative.

(Amended P.L. 99-576, § 701(96).)

§ 5205. Sale or other disposition of property

Any unclaimed personal property as described in section 5202 of this title of veterans who have heretofore died or who may hereafter die while maintained as such in a Veterans' Administration facility, and also any unclaimed property heretofore or hereafter found or situated in such facility, may be sold, used, destroyed, or otherwise disposed of in accordance with this subchapter, and subject to regulations promulgated by the Administrator pursuant hereto; and the net proceeds of sale thereof shall be credited and be subject to disbursement as provided in this subchapter.

§ 5206. Notice of sale

At least ninety days before any sale pursuant to this subchapter, written or printed notice thereof describing the property to be sold shall be mailed to the owner of the property or, if deceased, to the owner's executor or administrator, or to the nearest kin, if any such appear by the records of the Veterans' Administration. If none such appears from said records, similar notice shall be posted at the facility where the death occurred or property shall have been found (if in existence) and at the place where such property is situated at the time of such notice, and also at the place where probate notices are posted in the county wherein the sale is to be had. The person posting such notice shall make an affidavit setting forth the time and place of such posting and attaching thereto a copy of such notice, and such affidavit shall be prima facie evidence of such posting and admissible in evidence as proof of the same.

(Amended P.L. 99-576, § 701(97).)

§ 5207. Payment of small shipping charges

Upon receipt of a proper claim for such property under the provisions of this subchapter the Administrator is hereby authorized, in the Administrator's discretion and in accordance with regulations prescribed by the Administrator, to pay mailing or shipping charges not to exceed $25 in the case of each deceased veteran as hereinabove defined.

(Amended P.L. 99-576, § 701(98).)

§ 5208. Relinquishment of Federal jurisdiction

Subject to the provisions of this subchapter and to the extent necessary to effectuate the purposes of this subchapter, there is hereby relinquished to the respective State or dependency of the United States such jurisdiction pertaining to the administration of estates of decedents as may have been ceded to the United States by said State or dependency of the United States respecting the Federal reservation on which is situated any Veterans' Administration facility while such facility is operated by the Veterans' Administration; such jurisdiction with respect to any such property on any such reservation to be to the same extent as if such premises had not been ceded to the United States. Nothing in this section shall be construed to deprive any State or dependency of the United States of any jurisdiction which it now has nor to give any State, possession, or dependency of the United States authority over any Federal official as such on such premises or otherwise.

§ 5209. Definitions

The term "facility" or "Veterans' Administration facility" as used in this subchapter means those facilities over which the Veterans' Administration has direct and exclusive administrative jurisdiction, including hospitals or other facilities on property owned or leased by the United States while operated by the Veterans' Administration.

§ 5210. Finality of decisions

Decisions by the Administrator under this subchapter shall not be reviewable administratively by any other officer of the United States.

SUBCHAPTER II—DEATH WHILE INMATE OF VETERANS' ADMINISTRATION FACILITY

§ 5220. Vesting of property left by decedents

(a) Whenever any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, shall die while a member or patient in any facility, or any hospital while being furnished care or treatment therein by the Veterans' Administration, and shall not leave any surviving spouse, next of kin, or heirs entitled, under the laws of the decedent's domicile, to the decedent's personal property as to which such person dies intestate, all such property, including money and choses in action, owned by such person at the time of death and not disposed of by will or otherwise, shall immediately vest in and become the property of the United States as trustee for the sole use and benefit of the General Post Fund (hereafter in this subchapter referred to as the "Fund"), a trust fund prescribed by section 1321(a)(45) of title 31.

(Amended P.L. 94-581, § 208(b); P.L. 97-258, § 3(k)(9); P.L. 99-576, § 701(99).)

(b) The provisions of subsection (a) are conditions precedent to the initial, and also to the further furnishing of care or treatment by the Veterans' Administration in a facility or hospital. The acceptance and the continued acceptance of care or treatment by any veteran (admitted as a veteran to a Veterans' Administration facility or hospital) shall constitute an acceptance of the provisions and conditions of this subchapter and have the effect of an assignment, effective at such person's death, of such assets in accordance with and subject to the provisions of this subchapter and regulations issued in accordance with this subchapter.

(Amended P.L. 99-576, § 701(99).)

§ 5221. Presumption of contract for disposition of personalty

The fact of death of a veteran (admitted as such), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, in a facility or hospital, while being furnished care or treatment therein by the Veterans' Administration, leaving no spouse, next of kin, or heirs, shall give rise to a conclusive presumption of a valid contract for the disposition in accordance with this subchapter, but subject to its conditions, of all property described in section 5220 of this title owned by said decedent at death and as to which such person dies intestate.

(Amended P.L. 94-581, § 208(c); P.L. 99-576, § 701(100).)

§ 5222. Sale of assets accruing to the Fund

Any assets heretofore or hereafter accruing to the benefit of the Fund, other than money, but including jewelry and other personal effects, may be sold at the times and places and in the manner prescribed by regulations issued by the Administrator. Upon receipt of the purchase price the Administrator is authorized to deliver at the place of sale, said property sold, and upon request to execute and deliver appropriate assignments or other conveyances thereof in the name of the United States, which shall pass to the purchaser such title as decedent had at date of death. The net proceeds after paying any proper sales expense as determined by the Administrator shall forthwith be paid to the Treasurer of the United States to the credit of the Fund; and may be disbursed as are other moneys in the Fund by the Division of Disbursements, Treasury Department, upon order of said Administrator. Articles of personal adornment which are obviously of sentimental value, shall be retained and not sold or otherwise disposed of until the expiration of five years from the date of death of the veteran, without a claim therefor, unless for sanitary or other proper reasons it is deemed unsafe to retain same, in which event they may be destroyed forthwith. Any other articles coming into possession of the Administrator or the Administrator's representative by virtue of this subchapter which, under regulations promulgated by the Administrator, are determined to be unsalable may be destroyed forthwith or at the time prescribed by regulations, or may be used for the purposes for which disbursements might properly be made from the Fund, or if not usable, otherwise disposed of in accordance with regulations.

(Amended P.L. 99-576, § 701(101).)

§ 5223. Disbursements from the Fund

Disbursements from the Fund shall be made by the Division of Disbursements, Treasury Department, upon the order and within the discretion of the Administrator for the benefit of members and patients while being supplied care or treatment by the Veterans' Administration in any facility or hospital. The authority contained in the preceding sentence is not limited to facilities or hospitals under direct administrative control of the Veterans' Administration. There shall be paid out of the assets of the decedent so far as may be the valid claims of creditors against the decedent's estate that would be legally payable therefrom in the absence of this subchapter and without the benefit of any exemption statute, and which may be presented to the Veterans' Administration within one year from the date of death, or within the time, to the person, and in the manner required or permitted by the law of the State wherein administration, if any, is had upon the estate of the deceased veteran; and also the proper expenses and costs of administration, if any. If the decedent's estate is insolvent the distribution to creditors shall be in accordance with the laws of the decedent's domicile, and the preferences and priorities prescribed thereby shall govern, subject to any applicable law of the United States.

(Amended P.L. 99-576, § 701(102).)

§ 5224. Disposal of remaining assets

The remainder of such assets or their proceeds shall become assets of the United States as trustee for the Fund and disposed of in accordance with this subchapter. If there is administration upon the decedent's estate such assets, other than money, upon claim therefor within the time required by law, shall be delivered by the administrator of the estate to the Administrator or the Administrator's authorized representative, as upon final distribution; and upon the same claim there shall be paid to the Treasurer of the United States for credit to the Fund any such money, available for final distribution. In the absence of administration, any money, chose in action, or other property of the deceased veteran held by any person shall be paid or transferred to the Administrator upon demand by the Administrator or the Administrator's duly authorized representative, who shall deliver itemized receipt therefor. Such payment or transfer shall constitute a complete acquittance of the transferor with respect to any claims by any administrator, creditor, or next of kin of such decedent.

(Amended P.L. 99-576, § 701(103).)

§ 5225. Court actions

If necessary to obtain such assets the Administrator, through the Administrator's authorized attorneys, may bring and prosecute appropriate actions at law or other legal proceedings, the costs and expenses thereof to be paid as are other administrative expenses of the Veterans' Administration.

(Amended P.L. 99-576, § 701(104).)

§ 5226. Filing of claims for assets

Notwithstanding the crediting to said Fund of the assets, or proceeds thereof, of any decedent, whether upon determination by a court or the Veterans' Administration pursuant to the provisions of section 5220 of this title, any person claiming a right to such assets may within five years after the death of the decedent file a claim on behalf of such person and any other claiming with the Administrator. Upon receipt of due proof that any person was at date of death of the veteran entitled to the veteran's personal property, or a part thereof, under the laws of the State of domicile of the decedent, the Administrator may pay out of the Fund, but not to exceed the net amount credited thereto from said decedent's estate less any necessary expenses, the amount to which such person, or persons, was or were so entitled, and upon similar claim any assets of the decedent which shall not have been disposed of shall be delivered in kind to the parties legally entitled thereto. If any person so entitled is under legal disability at the date of death of such decedent, such five-year period of limitation shall run from the termination or removal of legal disability. In the event of doubt as to entitlement, the Administrator may cause administration or other appropriate proceedings to be instituted in any court having jurisdiction. In determining questions of fact or law involved in the adjudication of claims made under this section, no judgment, decree, or order entered in any action at law, suit in equity, or other legal proceeding of any character purporting to determine entitlement to said assets or any part thereof, shall be binding upon the United States or the Administrator or determinative of any fact or question involving entitlement to any such property or the proceeds thereof, or any part of the Fund, unless the Administrator has been seasonably served with notice and permitted to become a party to such suit or proceeding if the Administrator makes a request therefor within thirty days after such notice. Notice may be served in person or by registered mail or by certified mail upon the Administrator, or upon the Administrator's authorized attorney in the State wherein the action or proceedings may be pending. Notice may be waived by the Administrator or by the Administrator's authorized attorney, in which event the finding, judgment, or decree shall have the same effect as if the Administrator were a party and served with notice. Any necessary court costs or expenses if authorized by the Administrator may be paid as are other administrative expenses of the Veterans' Administration.

(Amended P.L. 86-507, § 1(33); P.L. 99-576, § 701(105).)

§ 5227. Notice of provisions of subchapter

The Administrator shall prescribe a form of application for hospital treatment and domiciliary care which shall include notice of the provisions of this subchapter.

§ 5228. Investment of the Fund

Money in the Fund not required for current disbursements may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

APPENDIX

SECTIONS 2-12 OF PUBLIC LAW 85-857, THE ACT ENACTING TITLE 38, UNITED STATES CODE

EFFECTIVE DATE AND SAVINGS PROVISION

EFFECTIVE DATE

SEC. 2. Except as otherwise provided in this Act, this Act shall take effect on January 1, 1959.

OFFENSES COMMITTED UNDER REPEALED LAWS

SEC. 3. (a) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act or the Veterans' Benefits Act of 1957 may be prosecuted and punished in the same manner and with the same effect as if such Acts had not been enacted.

(b) Forfeitures of benefits under laws administered by the Veterans' Administration occurring before January 1, 1959, shall continue to be effective.

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

SEC. 4. All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect.

CROSS REFERENCES

SEC. 5. (a) References in other laws to any provision of law replaced by title 38, United States Code, shall, where applicable, be deemed to refer also to the corresponding provision of title 38, United States Code.

(b) References in title 38, United States Code, to any provision of title 38, United States Code, shall, where applicable, be deemed to refer also to the prior corresponding provisions of law.

(c) Amendments effective after August 18, 1958, made to any provision of law replaced by title 38, United States Code, shall, notwithstanding the repeal of such provision by section 14 of this Act, supersede the corresponding provisions of title 38, United States Code, to the extent that such amendments are inconsistent therewith.

CONTINUING AVAILABILITY OF APPROPRIATIONS

SEC. 6. (a) Amounts heretofore appropriated to carry out the purposes of any provision of law repealed by this Act, and available on December 31, 1958, shall be available to carry out the purposes of the corresponding provisions of title 38, United States Code.

(b) The availability and use of appropriations made for the purposes of the Act of July 1, 1948 (62 Stat. 1210; 50 App. U.S.C. 1991–1996) shall not be affected by the repeal of such Act.

OUTSTANDING RULES, REGULATIONS, AND ORDERS

SEC. 7. All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator.

PUBLICATION OF THIS ACT

SEC. 8. This Act shall be printed in slip-law form with a table of contents and a comprehensive index and tables furnished by the Committee on Veterans' Affairs of the House of Representatives; however, such table of contents, comprehensive index and tables shall not be printed in the United States Code at Large.

PENDING CLAIMS

SEC. 9. A claim for benefits which is pending in the Veterans' Administration on January 1, 1959, or filed thereafter, shall be adjudicated under the laws in effect on December 31, 1958, with respect to the period before January 1, 1959, and, except as provided in section 10, under title 38, United States Code, thereafter.

PERSONS RECEIVING BENEFITS

SEC. 10. Any individual receiving benefits as a veteran, or as the widow, child, or parent of a veteran, under public laws administered by the Veterans' Administration on December 31, 1958, shall, as long as entitlement under such laws continues, receive benefits under the corresponding provisions of title 38, United States Code, thereafter or benefits at the rate payable under such public laws, whichever will result in the greater benefit being paid to the individual. The provisions of this section shall apply to those claims within the purview of section 9 in which it is determined that benefits are payable for December 31, 1958.[1]

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[1] Sec. 1(b), Public Law 87-645: sec. 1(b), Public Law 89-311; sec. 1(b), Public Law 90-493; sec. 1(b), Public Law 91-376; sec. 101(b), Public Law 92-328; sec. 101(b), Public Law 93-295; sec. 101(b), Public Law 94-71; sec. 101(b), Public Law 94-433; sec. 101(b), Public Law 95-117; sec. 101(b), Public Law 95-479; sec. 101(b), Public Law 96-128; sec. 101(b), Public Law 96-385; authorized the Administrator to adjust administratively the rates of disability compensation payable to persons within the purview of this section who are not in receipt of compensation pursuant to ch. 11 of title 38, United States Code, such adjustment to be consistent with the increases authorized by sec. 1(a), Public Law 87-645; sec. 1(a), Public Law 89-311; sec. 1(a), Public Law 90-493; sec. 1(a), Public Law 91-376; sec. 101(a), Public Law 92-328; sec. 101(a), Public Law 93-295; sec. 101(a), Public Law 94-71; sec. 101(a), Public Law 94-433; sec. 101(a), Public Law 95-117; sec.

Continued

PERSONS ENTITLED TO EMERGENCY OFFICERS' RETIREMENT PAY

SEC. 11. (a) Any person who was receiving, or entitled to receive, emergency officers' retirement pay, or other privileges or benefits as a retired emergency officer of World War I, on December 31, 1958, under the laws in effect on that day, shall, except where there was fraud, clear and unmistakable error as to conclusion of fact or law, or misrepresentation of material facts, continue to receive, or be entitled to receive, emergency officers' retirement pay at the rate otherwise payable on December 31, 1958, and such other privileges and benefits, so long as the conditions warranting such pay, privileges, and benefits under those laws continue.

(b) Any individual who, upon application therefore before May 25, 1929, would have been granted emergency officer's retirement pay based upon 30 per centum or more disability under the Act of May 24, 1928 (45 Stat. 735), who would have been entitled to continue to receive such under section 10 of Public Numbered 2, Seventy-third Congress, or under section 1 of Public Numbered 743, Seventy-sixth Congress, and who upon being placed on the emergency officer's retired list would have been paid retired pay at a monthly rate lower than the monthly rate of disability compensation then payable, shall, upon application made therefore after the date of enactment of this subparagraph to the Administrator of Veterans' Affairs, be placed upon the appropriate emergency officer's retired list, and thereafter shall be entitled to all rights, privileges, and benefits of retired emergency officers of World War I. (Added P.L. 87-875, § 1.)

CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

SEC. 12. [(a)] (Repealed P.L. 91-24, § 14(a).)

(b) Nothing in this Act or any amendment or repeal made by it, shall affect any right, liability, penalty, authorization or requirement pertaining to World War adjusted compensation authorized or prescribed under the provisions of the World War Adjusted Compensation Act, or the Adjusted Compensation Payment Act, 1936, or any related Act, which was in effect on December 31, 1958.

(c) (Repealed P.L. 89-50, § 1(c).)

(d) Nothing in this Act, or any amendment or repeal made by it, shall affect any right of any person based on a contract entered into before the effective date of this Act, or affect the manner in which such right could have been enforced or obtained but for this Act, or such amendment or repeal.

(e) Chapter 37 of title 38, United States Code, is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III.

101(a), Public Law 95-479; sec. 101(a), Public Law 96-128; sec. 101(a), Public Law 96-385; respectively.

PROVISION OF PENSION LAW IN EFFECT JUNE 30, 1960, FOR VETERANS, WIDOWS, AND CHILDREN OF WORLD WARS I, II, AND KOREAN CONFLICT, WHICH WERE CHANGED BY PUBLIC LAW 86-211

TITLE 38, UNITED STATES CODE

§ 503. Items not considered in determining income [1]

For the purposes of this chapter [15], in determining annual income, the Administrator shall not consider—

(1) payments under laws administered by the Veterans' Administration because of disability or death;

(2) payments of mustering-out pay;

(3) payments of the six months' death gratuity;

(4) annuities under chapter 73 of title 10;

(5) payments of adjusted compensation; and

(6) payments of bonus of similar cash gratuity by any State based on service in the Armed Forces.

§ 521. Veterans of World War I, World War II or the Korean conflict [2]

(a) The Administrator shall pay to each veteran of World War I, World War II, or the Korean Conflict, who meets the service requirements of this section, and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct or vicious habits, a pension at the following monthly rate:

(1) $66.15; or

(2) $78.75 if (A) the veteran is sixty-five years of age or older or (B) the veteran has been rated as permanently and totally disabled for a continuous period of ten years and he has been in receipt of pension throughout such period; or

(3) $135.45 if the veteran is in need of regular aid and attendance.

(b) A veteran meets the service requirements of this section if he served in the active military, naval, or air service—

(1) for ninety days or more during either World War I, World War II, or the Korean conflict;

(2) during World War I, World War II, or the Korean conflict, and was discharged or released from such service for a service-connected disability; or

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[1] Section 10, Public Law 88-664, provides:

"Sec. 10. In computing the income of persons whose pension eligibility is subject to the first sentence of section 9(b) of the Veterans Pension Act of 1959, there shall be excluded 10 per centum of the amount of payments received under public or private retirement, annuity, endowment, or similar plans or programs."

[2] Section 110. Public Law 90-77 provides:

"Sec. 110. The Administrator of Veterans' Affairs shall pay to a veteran who is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 and who—(1) has, in addition to a disability rated as permanent and total additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of this disability or disabilities, is permanently housebound but does not qualify for pension based on need of regular aid and attendance, in lieu of the penson otherwise payable to him, a pension at the monthly rate of $100."

(3) for a period of ninety consecutive days or more and such period ended during World War I, or began or ended during World War II or the Korean conflict.

§ 522. Income limitations [1]

(a) No pension shall be paid under section 521 of this title to any unmarried veteran whose annual income exceeds $1,400, or to any married veteran or any veteran with children whose annual income exceeds $2,700.

(b) As a condition of granting or continuing pension under section 521 of this title, the Administrator may require from any veteran applying for, or in receipt of, pension under such sections such information, proofs, or evidence as he desires in order to determine the annual income of such veteran.

§ 541. Widows of World War I veterans [2]

(a) The Administrator shall pay to the widow of each veteran of World War I who met the service requirements of section 521 of this title, or who at the time of his death was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability, a pension at the following monthly rate:

(1) Widow, no child, $50.40;

(2) Widow, one child, $63, with $7.56 for each additional child.

(b) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

(1) before December 14, 1944; or

(2) for five or more years; or

(3) for any period of time if a child was born of the marriage.

§ 542. Children of World War I veterans

(a) Whenever there is no widow entitled to pension under section 541 of this title, the Administrator shall pay to the children of each veteran of World War I who met the service requirements of section 521 of this title, or who at the time of his death was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability, a pension at the following monthly rate:

(1) One child, $27.30;

(2) Two children, $40.95; and

(3) Three children, $54.60, with $7.56 for each additional child.

(b) Pension prescribed by this section shall be paid to eligible children in equal shares.

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[1] Section 4, Public Law 90-275 as amended by sec. 206, P.L. 94-432; sec. 105, P.L. 95-204 provides: "Sec. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760, instead of $3,100 and $4,460 respectively."

[2] Section 108(c), Public Law 90-77, provides: "Sec. 108(c). If any widow is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 and is in need of regular aid and attendance, the monthly rate of pension payable to her shall be increased by $50."

§ 543. Widows of World War II or Korean conflict veterans[1]

(a) The Administrator shall pay to the widow of each veteran of World War II or of the Korean conflict—

(1) who met the service requirements of section 521 of this title, and at the time of his death had a service-connected disability for which compensation would have been payable if 10 per centum or more in degree disabiling; or

(2) who, at the time of his death, was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability;

a pension at the rate prescribed by section 541 of this title for the widow of a veteran of World War I.

(b) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

(1) before January 1, 1957, in the case of a widow of a veteran of World War II, or before February 1, 1965, in the case of a widow of a veteran of the Korean conflict; or

(2) for five or more years; or

(3) for any period of time if a child was born of the marriage.

§ 544. Children of World War II or Korean conflict veterans

Whenever there is no widow entitled to pension under section 543 of this title, the Administrator shall pay to the children of each veteran of World War II or of the Korean conflict described in paragraph (1) or (2) of section 543(a) of this title a pension at the rate prescribed by section 542 of this title for the children of a veteran of World War I.

§ 545. Income limitations[2]

(a) No pension shall be paid under sections 541–544 of this title to any widow without child, or to or on account of any child, whose annual income exceeds $1,400, or to a widow (with a child) whose annual income exceeds $2,700.

(b) Where pension is not payable to a widow because of this section, payments to children shall be made as though there were no widow.

§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1) Where any veteran having neither wife, child, nor dependent parents is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration any pension, compensation, or retirement pay otherwise payable shall continue without reduction until the first day of the seventh calendar month following the month of admission of such veteran for treatment or care. If treatment or care extends beyond that period, the pension, compensation, or retirement pay, if $30 per month or less, shall continue without reduction, but if greater than $30 per month, the pension, compensation, or retirement pay shall not exceed 50 per centum of the amount otherwise payable or $30 per month, whichever is the greater. If such veteran is discharged from such treatment or care upon certification by the officer in charge of the hospital, institution, or home, that maximum benefits have been received or that release is approved, he shall be paid in a lump sum such additional amount as would equal the total sum by which his pension, compensation, or retirement pay has been reduced under this section. If treatment or care is terminated by the veteran against medical advice or as the result of disciplinary action the amount by which any pension, compensation, or retirement pay is reduced hereunder, shall be paid to him at the expiration of six months after such termination or, in the event of his prior death, as provided in paragraph (2) of this subsection; and the pension, compensation, or retirement pay of any veteran leaving against medical advice or as the result of disciplinary action shall, upon a succeeding readmission for treatment or care, be subject to reduction, as herein provided, from the date of such readmission, but if such subsequent treatment or care is continued until discharged therefrom upon certification, by the officer in charge of the hospital, institution, or home in which treatment or care was furnished, that maximum benefits have been received or that release is approved, the veteran shall be paid in a lump sum such additional amount as would equal the total sum by which his pension, compensation, or retirement pay has been reduced under this section after such readmission.[1]

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[1] Section 108(c), Public Law 90–77, provides: "Sec. 108(c). If any widow is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 and is in need of regular aid and attendance, the monthly rate of pension payable to her shall be increased by $50."

[2] Section 4, Public Law 90–275 as amended by sec. 206, P.L. 94–432; sec. 105, P.L. 95–204 provides: "Sec. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760, instead of $3,100 and $4,460, respectively."

(2)(A) In the event of the death of any veteran subject to the provisions of this section, while receiving hospital treatment, institutional or domiciliary care, or before payment of any lump sum authorized herein, such lump sum shall be paid in the following order of precedence: First, to the spouse; second, if the decedent left no spouse, or if the spouse is dead at time of settlement, then to the children (without regard to their age or marital status) in equal parts; third, if no spouse or child, then to the father and mother in equal parts; fourth, if either the father or mother is dead, then to the one surviving; fifth, if there is no spouse, child, father, or mother at the time of settlement, then to the brothers and sisters in equal parts. If there are no persons in the classes named to whom payment may be made under this paragraph, no payment shall be made, except there may be paid only so much of the lump sum as may be necessary to reimburse a person who bore the expenses of last sickness or burial, but no part of the lump sum shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of such veteran.[2]

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[1] Public Law 89-362 restricts reduction of benefits immediately to readmission occurring within six months where prior treatment was terminated against medical advice. Also applies to those who continued in respect to benefits under pension law in effect on June 30, 1960.

[2] Public Law 87-544 eliminated nondependent parents and brothers and sisters. Also applies to those who continued in respect to benefits under pension law in effect on June 30, 1960.

(B) No payment shall be made under the last two sentences of section 3202(d) of this title or under this paragraph (2) unless claim therefor is filed with the Veterans' Administration within five years after the death of the veteran, except that, if any person so entitled under the last two sentences of section 3202(d) of this title or under this paragraph is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(b)(1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration, and is rated by the Veterans' Administration in accordance with regulations as being incompetent by reason of mental illness, the pension, compensation, or retirement pay of such veteran shall be subject to the provisions of subsection (a) of this section; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(2) In any case in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, insitutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to $500. The amount which would be payable but for this paragraph shall be paid to the veteran as provided for the lump sum in paragraph (1) of this subsection, but in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(3) Where any benefit is discontinued by reason of paragraph (2) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would othewise be payable to or for such incompetent veteran. Paragraph (2) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of his pension, compensation, or retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined by the Administrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(4) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(c) Any veteran subject to the provisions of subsection (a) or (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a wife, child, or dependent parent.

(d) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension, compensation, or retirement pay of any veteran for any part of the period during which he is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

SEC. 9, PUBLIC LAW 86-211

The savings provision of Public Law 86-211, which modified the provision programs for World War I, II, and Korean conflict veterans and dependents, provides:

"SEC. 9. (a) Any claim for pension which is pending in the Veterans' Administration of June 30, 1960, or any claim for death pension filed thereafter within one year from the date of death of a veteran which occurred prior to July 1, 1960, shall be adjudicated under title 38, United States Code, in effect on June 30, 1960, with respect to the period before July 1, 1969, and except as provided in subsection (c), under such title, as amended by this Act, thereafter.

"(b) Nothing in this Act shall affect the eligibility of any person receiving pension under title 38, United States Code, on June 30, 1960, for pension under all applicable provisions of that title in effect on that date for such period or periods thereafter with respect to which he can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application, under title 38, United States Code, as amended by this Act.

"(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for June 30, 1960."

PROVISIONS AFFECTING PRIOR PENSION LAW

Section 20(b) of the Railroad Retirement Act of 1937 (45 U.S.C. 228(b))

(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code.

Section 1441 of Title 10 of the United States Code

§ 1441. Annuities in addition to other payments

An annuity under this chapter is in addition to any pension or other payment to which the beneficiary is entitled under any other provision of law, and may not be considered as income under any law administered by the Veterans' Administration except section 415(g) and chapter 15 of title 39. (Amended P.L. 86–211, § 8(a).)

Section 608 of the Federal Employees' Pay Act of 1945 (5 U.S.C. 948)

Sec. 608. Amounts payable under the provisions of this Act, other than increases under sections 405, 501, 521, and 602, shall not be considered in determining the amount of a person's annual rate of compensation for the purposes of section 212 of title II of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932, as amended (U.S.C., 1940 edition, title 5, sec. 59a; Supp. IV, title 5, sec. 59b). (Amended P.L. 86–211, § 8(b).)

Section 9 of the Veterans' Pension Act of 1959 (Public Law 86–211) (Repealed by P.L. 95–588, sec. 306(b))

Sec. 9. (a) Any claim for pension which is pending in the Veterans' Administration on June 30, 1960, or any claim for death pension filed thereafter within one year from the date of death of a veteran which occurred prior to July 1, 1960, shall be adjudicated under title 38, United States Code, in effect on June 30, 1960, with respect to the period before July 1, 1960, and, except as provided in subsection (c), under such title, as amended by this Act, thereafter.

(b) Nothing in this Act shall affect the eligiblity of any person receiving pension under title 38, United States Code, on June 30, 1960, for pension under all applicable provisions of that title in effect on that date for such period or periods thereafter with respect to which he can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application, under title 38, United States

Code, as amended by this Act. (See P.L. 87-544, § 2; P.L. 88-664, § 10; P.L. 89-362, § 3; P.L. 90-77, §§ 108(c), 110; P.L. 90-275, § 4; P.L. 91-588, §§ 5, 8(a)(1); P.L. 92-198, § 4; P.L. 93-527, § 6; P.L. 94-169, § 107; P.L. 94-432, § 206; P.L. 95-204, § 105.)

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for June 30, 1960.

PROVISIONS OF PENSION LAW IN EFFECT DECEMBER 31, 1978, FOR VETERANS, SURVIVING SPOUSES, AND CHILDREN OF WORLD WARS I, II, THE KOREAN CONFLICT, AND THE VIETNAM ERA, WHICH WERE CHANGED BY PUBLIC LAW 95-588

TITLE 38, UNITED STATES CODE

§ 501. Definitions

For the purposes of this chapter—

(1) The term "Indian Wars" means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term "World War I" includes, in the case of any veteran, any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term "Civil War veteran" includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term "active military or naval service" includes active service in those forces.

§ 503. Determinations with respect to annual income

(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

(1) payments of the six-months' death gratuity;

(2) donations from public or private relief or welfare organizations;

(3) payments under this chapter, and chapters 11 and 13 (except section 412(a)) of this title;

(4) payments under policies of servicemen's group life insurance, United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity;

(5) lump sum death payments under subchapter II of chapter 7 of title 42;

(6) 10 per centum of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(7) amounts equal to amounts paid by a spouse of a veteran for the expenses of such veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

(A) such veteran's just debts,

(B) the expenses of such veteran's last illness; and

(C) the expenses of such veteran's burial to the extent such expenses are not reimbursed under chapter 23 of this title;

(8) proceeds of fire insurance policies;

(9) amounts equal to amounts paid (A) by a veteran for the last illness and burial of such veteran's deceased spouse or child or (B) by a surviving spouse or a spouse of a veteran for the last illness and burial of a child of such a veteran;

(10) profit realized from the disposition of real or personal property other than in the course of a business;

(11) payments received for discharge of jury duty or obligatory civic duties;

(12) payments of educational assistance allowance or special training allowance under chapter 35 of this title;

(13) payments of bonus or similar cash gratuity by any State based on service in the Armed Forces;

(14) amounts equal to prepayments on an indebtedness secured by a mortgage, or similar type security instrument, on real property (which was prior to death the principal residence of a veteran and spouse) made by the veteran or such veteran's surviving spouse, after the death of the spouse, during the year of death and the succeeding year, if said indebtedness was in existence at the time of death;

(15) amounts in joint accounts in banks and similar institutions acquired by reason of death of other joint owner;

(16) payments received by a retired employee from such employee's former employer as reimbursement for monthly premiums for supplementary medical insurance benefits for the aged provided by part B of title XVIII of the Social Security Act, as amended; and

(17) payments of annuities elected under subchapter I of chapter 73 of title 10.

(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(c) The Administrator may provide by regulation for the exclusion from income under this chapter of amounts paid by a veteran, surviving spouse, or child for unusual medical expenses.

§ 506. Resource reports and overpayment adjustments

(a) As a condition of granting or continuing pension under section 521, 541, or 542 of this title, the Administrator—

(1) may require from any person applying for, or in receipt of, pension thereunder such information, proofs, or evidence as the Administrator desires in order to determine the annual income and the corpus of the estate of such person;

(2) shall require that any such person, other than a child or a person who has attained seventy-two years of age and has been paid pension thereunder during two consecutive calendar

years, file each year with the Veterans' Administration (on the form prescribed by the Administrator) a report showing the total income which such person received during the preceding year, the corpus of such person's estate at the end of that year, and such person's estimate for the then current year of the total income such person expects to receive and of any expected increase in the corpus of such person's estate; and

(3) shall require that any such person promptly file a revised report whenever there is a material change in such person's estimated annual income or a material change in such person's estimate of the corpus of such person's estate.

(b) If there is an overpayment of pension under section 521, 541, or 542 of this title, the amount thereof shall be deducted (unless waived) from any future payments made thereunder to the person concerned.

§ 512. Spanish-American War veterans

(a)(1) The Administrator shall pay to each veteran of the Spanish-American War who meets the service requirements of this subsection a pension at the following monthly rate:

(A) $101.59; or

(B) $135.45 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for ninety days or more during the Spanish-American War;

(B) during the Spanish-American War and was discharged or released from such service for a service-connected disability; or

(C) for a period of ninety consecutive days or more and such period began or ended during the Spanish-American War.

(3)(A) Any veteran eligible for pension under this subsection shall, if such veteran so elects, be paid pension at the rates prescribed by section 521 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in subparagraph (B).

(B) The Administrator shall pay each month to each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (i) that provided by subparagraph (B) of subsection (a)(1) of this section, or (ii) that which is payable to the veteran under section 521 of this title if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to subparagraph (A) of this paragraph. Each change in the amount of pension payment required by this subparagraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(b)(1) The Administrator shall pay to each veteran of the Spanish-American War who does not meet the service requirements of subsection (a), but who meets the service requirements of this subsection, a pension at the following monthly rate:

(A) $67.73; or

(B) $88.04 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for seventy days or more during the Spanish-American War; or

(B) for a period of seventy consecutive days or more and such period began or ended during the Spanish-American War.

§ 521. Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era

(a) The Administrator shall pay to each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who meets the service requirements of this section, and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct or vicious habits, pension at the rate prescribed by this section.

(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,100
.07	1,100	1,700
.08	1,700	3,770

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,770.

(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension for a veteran shall be— $212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000

The monthly rate of pension for a veteran shall be— $212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
.06	3,000	3,200
.07	3,200	3,600
.08	3,600	5,070

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $5,070.

(d)(1) If the veteran is in need of regular aid and attendance, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $165.

(2) In any case in which—

(A) any veteran is denied pension under subsection (b) or (c) of this section solely for the reason that his annual income exceeds the maximum income limitation set forth in such subsection, or

(B) payment of pension to any veteran under such subsection (b) or (c) is discontinued for such reason,

and such veteran is in need of aid and attendance, such veteran shall be entitled to a monthly rate of $165 reduced by 16.6 per centum for each $100, or portion thereof, by which the veteran's annual income exceeds the applicable maximum annual income limitation; but no monthly rate shall be payable under this paragraph if the veteran's annual income exceeds such limitation by more than $500.

(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of such veteran's disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $61.

(f) For the purposes of this section—

(1) in determining annual income, where a veteran is living with such veteran's spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, $1,200 or the total earned income of the spouse, shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;

(2) a veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(g) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

(1) for ninety days or more during either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era;

(2) during the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, and was dis-

charged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict, or the Vietnam era; or

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

(h) The rate of pension payable to any veteran receiving benefits under subsections (b), (c), (d), and (e) of this section shall be increased by 25 per centum beginning on the first day of the month during which the veteran attains age 78.

§ 522. Net worth limitation

The Administrator shall deny or discontinue payment of pension under section 521 of this title when the corpus of the veteran's estate is such that under all the circumstances, including consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance.

§ 536. Surviving spouses of Spanish-American War veterans

(a) The Administrator shall pay to the surviving spouse of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of $70, unless such surviving spouse was the spouse of the veteran during such veteran's service in the Spanish-American War, in which case the monthly rate shall be $75.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before January 1, 1938; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(d)(1) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 541 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to surviving spouses of veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in paragraph (2).

(2) The Administrator shall pay each month to the surviving spouse of each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that which is payable to such surviving spouse under subsections (a) and (b) of this section as increased by section 544 of this title; or (B) that which is payable under section 541 of this title, as increased by such section 544, to a surviving spouse of a World War I veteran with the same annual income and corpus of estate. Each change in the amount of pension

required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

§ 541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

(a) The Administrator shall pay to the surviving spouse of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section.

(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,800
.07	2,800	3,770

(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,770.

(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,600
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070

(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $5,070.

(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate.

(d) If there is a surviving spouse and more than one child, the monthly rate payable under subsection (c) shall be increased by $26 for each additional child.

(e) No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—

(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, or

(B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, or (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(f) As used in this section and section 542 of this title, the term "veteran" includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.

§ 542. Children of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

(a) Whenever there is no surviving spouse entitled to pension under section 541 of this title, the Administrator shall pay to the child or children of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the monthly rate of $61 for one child, and $26 for each additional child.

(b) Pension prescribed by this section shall be paid to eligible children in equal shares (Amended P.L. 86-211, § 4.)

(c) No pension shall be paid under this section to a child whose annual income, excluding earned income, exceeds $3,080.

§ 543. Net worth limitation

The Administrator shall deny or discontinue payment of pensions under section 541 or 542 of this title to a surviving spouse or child when the corpus of the estate of the survivor concerned is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the survivor's maintenance.

§ 544. Aid and attendance allowance

If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $79.

§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans [1]

(a)(1) Where any veteran having neither wife nor child is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration, no pension in excess of $50 per month shall be paid to or for the veteran for any period after (a) the end of the second full calendar month following the month of admission for treatment or care or (b) readmission for treatment of care within six months following termination of a period of treatment or care of not less than two full calendar months.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a wife but whose pension is payable under section 521(b) of this title. In such a case, the Administrator may apportion and pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title.

(b)(1) In any case in which a veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Veterans' Administration in accordance with regulations as being incompetent by reason of mental illness, and his estate from any source equals or exceeds $1,500, further payment of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to $500. The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of his pension, compensation, or retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined by the Ad-

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[1] Sec. 106. Public Law 92-38 provides:

"All compensation or retirement pay which is being withheld pursuant to the provisions of subsections (a) and (b)(1) of section 3203, title 38, United States Code, in effect on the day before the effective date of this Act, shall be paid to the veteran, if competent, in a lump sum. If the veteran is incompetent, the withheld amounts shall be paid in a lump sum, or successive lump sums, subject to the $1,500 and $500 limitations of subsection (b)(1) of such section 3203 as amended by this Act. If a competent veteran dies before payment is made the withheld amounts shall be paid according to the order of precedence, and subject to the time limitation of subsection (a)(2) of such section 3203 in effect the day before the effective date of this Act. In the event of the death of an incompetent veteran before payment of all withheld amounts, no part of the remainder shall be payable."

ministrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(c) Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a wife, child, or dependent parent.

(d) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which he is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(e) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of his admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.[1]

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[1] Sec. 3. Public Law 89-362 provides: "The amendments made by this Act shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959."

SECTION 306 OF PUBLIC LAW 95-588

SAVINGS PROVISIONS FOR PERSONS ENTITLED TO PENSION AS OF DECEMBER 31, 1978

SEC. 306. (a)(1)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, may elect to receive pension under such section as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(2) Any person eligible to make an election under paragraph (1) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 521, 541, or 542, as appropriate, of title 38, United States Code, as in effect on December 31, 1978, except that—

(A) pension may not be paid to such person if such person's annual income (determined in accordance with section 503 of title 38, United States Code, as in effect on December 31, 1978) exceeds $4,038, in the case of a veteran or surviving spouse without dependents, $5,430, in the case of a veteran or surviving spouse with one or more dependents, or $3,299, in the case of a child; and

(B) the amount prescribed in subsection (f)(1) of section 521 of such title (as in effect on December 31, 1978) shall be $1,285;

as each such amount is increased from time to time under paragraph (3).

(3) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall, effective on the date of such increase under such section 3112, increase—

(A) the annual income limitations in effect under paragraph (2); and

(B) the amount of income of a veteran's spouse excluded from the annual income of such veteran under section 521(f)(1) of such title, as in effect on December 31, 1978;

by the same percentage as the percentage by which such maximum annual rates under such sections 521, 541, and 542 are increased.

(b)(1) Effective January 1, 1979, section 9 of the Veterans' Pension Act of 1959 (Public Law 86-211) is repealed.

(2)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 9(b) of the Veterans' Pension Act of 1959 may elect to receive pension under section 521, 541, or 542 or title 38, United States Code, as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator of Veterans' Affairs may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(3) Any person eligible to make an election under paragraph (2) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9(b) of the Veterans' Pension Act of 1959, as in effect on December 31, 1978, except that pension may not be paid to such person if such person's annual income (determined in accordance with the applicable provisions of law, as in effect on December 31, 1978) exceeds $3,534, in the case of a veteran or surviving spouse without dependents or in the case of a child, or $5,098, in the case of a veteran or surviving spouse with one or more dependents, as each such amount is increased from time to time under paragraph (4).

(4) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator shall, effective on the date of such increase under such section 3112, increase the annual income limitations in effect under paragraph (3) by the same percentage as the percentage by which the maximum annual rates under such sections 521, 542, and 543 are increased.

(c) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on December 31, 1978;

(2) a claim for pension is filed by a veteran after December 31, 1978, and within one year after the date on which such veteran became totally and permanently disabled, if such veteran become totally and permanently disabled before January 1, 1979; or

(3) a claim for pension is filed by a surviving spouse or by a child after December 31, 1978, and within one year after the date of death of the veteran through whose relationship such

claim is made, if the death of such veteran occurred before January 1, 1979;

shall be adjudicated under title 38, United States Code, as in effect on December 31, 1978. Any benefits determined to be payable as the result of the adjudication of such a claim shall be subject to the provisions of subsection (a).

(d) In any case in which any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, elects (in accordance with subsection (a)(1) or (b)(2), as appropriate) before October 1, 1979, to receive pension under such section as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall pay to such person an amount equal to the amount by which the amount of pension benefits such person would have received had such election been made on January 1, 1979, exceeds the amount of pension benefits actually paid to such person for the period beginning on January 1, 1979, and ending on the date preceding the date of such election.

(e) Whenever there is an increase under subsections (a)(3) and (b)(4) in the annual income limitations with respect to persons being paid pension under subsections (a)(2) and (b)(3), the Administrator of Veterans' Affairs shall publish such annual income limitations, as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215(i) of such Act.

SECTION 6 OF THE NATIONAL CEMETERIES ACT OF 1973
(PUBLIC LAW 93-43)

SEC. 6. (a)(1) There are hereby transferred from the Secretary of the Army to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, (A) all national cemeteries (except the cemetery at the United States Soldiers' and Airmen's Home and Arlington National Cemetery), and (B) any other cemetery (including burial plots), memorial, or monument under the jurisdiction of the Secretary of the Army immediately preceding the effective date of this section (except the cemetery located at the United States Military Academy at West Point) which the President determines would be appropriate in carrying out the purposes of this Act.

(2) There are hereby transferred from the Secretary of the Navy and the Secretary of the Air Force to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, any cemetery (including burial plots), memorial, or monument under the jurisdiction of either Secretary immediately preceding the effective date of this section (except those cemeteries located at the United States Naval Academy at Annapolis, the United States Naval Home Cemetery at Philadelphia, and the United States Air Force Academy at Colorado Springs) which the President determines would be appropriate in carrying out the purposes of this Act.

(b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds available to, or under the jurisdiction of, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, in connection with functions transferred by this Act, as determined by the Director of the Office of Management and Budget, are transferred to the Administrator of Veterans' Affairs.

(c) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act may be prosecuted and punished in the same manner and with the same effect as if such amendments or repeals had not been made.

(d) All rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to the cemeteries, memorials, and monuments transferred to the Veterans' Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator of Veterans' Affairs, by any court of competent jurisdiction, or by operation of law.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an official of the Department of the Army, the Department of the Navy, or the Department of the Air Force with respect to functions transferred under subsection (a) or (c) of this section shall abate by reason of the enactment of this section. No cause of action by or against any such department with respect to functions transferred under such subsection (a) or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such officer of the Veterans' Administration as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, upon its own motion or that of any party, enter an order which will give effect to the provisions of this subsection. If before the date this section takes effect, any such department, or officer thereof in his official capacity, is a party to a suit with respect to any function so transferred, such suit shall be continued by the Administrator of Veterans' Affairs.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940, AS AMENDED

PUBLIC LAW 861, SEVENTY-SIXTH CONGRESS; APPROVED OCTOBER 17, 1940

Be it enated by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Soldiers' and Sailors' Civil Relief Act of 1940.

An Act to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard.

ARTICLE I.—GENERAL PROVISIONS

SEC. 100 [50 U.S.C. App. 510]. In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in such service during the period herein specified over which this Act remains in force.

SEC. 101 [50 U.S.C. App. 511]. (1) The term "person in the military service", the term "persons in military service", and the term "persons in the military service of the United States" as used in this Act, shall include the following persons and no others: All members of the Army of the United States, the United States Navy, the Marine Corps, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy. The term "military service", as used in this Act, shall signify Federal service on active duty with any branch of service heretofore referred to or mentioned as well as training or education under the supervision of the United States preliminary to induction into the military service. The terms "active service" or "active duty" shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause. (Amended P.L. 92-540, § 504(1).)

(2) The term "period of military service", as used in this Act, shall include the time between the following dates: For persons in

active service at the date of the approval of this Act [October 17, 1940], it shall begin with the date of approval of this Act; for persons entering active service after the date of this Act, with the date of entering active service. It shall terminate with the date of discharge from active service or death while in active service, but in no case later than the date when this Act ceases to be in force.

(3) The term "person", when used in this Act with reference to the holder of any right alleged to exist against a person in military service or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

(4) The term "court", as used in this Act, shall include any court of competent jurisdiction of the United States or of any State, whether or not a court of record.

Sec. 102 [50 U.S.C. App. 512]. (1) The provisions of this Act shall apply to the United States, the several States and Territories, the District of Columbia, and all territory subject to the jurisdiction of the United States, including the Philippine Islands while under the sovereignty of the United States, and to proceedings commenced in any court therein, and shall be enforced through the usual forms of procedure obtaining in such courts or under such regulations as may be by them prescribed.

(2) When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court.

Sec. 103 [50 U.S.C. App. 513]. (1) Whenever pursuant to any of the provisions of this Act the enforcement of any obligation or liability, the prosecution of any suit or proceeding, the entry or enforcement of any order, writ, judgment, or decree, or the performance of any other act, may be stayed, postponed, or suspended, such stay, postponement, or suspension may, in the discretion of the court, likewise be granted to sureties, guarantors, endorsers, accommodation makers, and others, whether primarily or secondarily subject to the obligation or liability, the performance or enforcement of which is stayed, postponed, or suspended.

(2) When a judgment or decree is vacated or set aside in whole or in part, as provided in this Act, the same may, in the discretion of the court, likewise be set aside and vacated as to any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the contract or liability of the enforcement of which the judgment or decree was entered.

(3) Whenever, by reason of the military service of a principal upon a criminal bail bond the sureties upon such bond are prevented from enforcing the attendance of their principal and performing their obligation the court shall not enforce the provisions of such bond during the military service of the principal thereon and may in accordance with principles of equity and justice either during or after such service discharge such sureties and exonerate the bail.

(4) Nothing contained in this Act shall prevent a waiver in writing of the benefits afforded by subsections (1) and (2) of this section by any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the obli-

gation or liability, except that after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect of which it applies, and no such waiver shall be valid after the beginning of the period of military service if executed by an individual who subsequent to the execution of such waiver becomes a person in military service, or if executed by a dependent of such individual, unless executed by such individual or dependent during the period specified in section 106.

Sec. 104 [50 U.S.C. App. 514]. Persons who serve with the forces of any nation with which the United States may be allied in the prosecution of any war in which the United States engages while this Act remains in force and who immediately prior to such service where citizens of the United States shall, except in those cases provided for in section 512, be entitled to the relief and benefits afforded by this Act if such service is similar to military service as defined in this Act, unless they are dishonorably discharged therefrom, or it appears that they do not intend to resume United State citizenship.

Sec. 105 [50 U.S.C. App. 515]. The Secretary of War and the Secretary of the Navy shall make provision, in such manner as each may deem appropriate for his respective Department, to insure the giving of notice of the benefits accorded by this Act to persons in and to persons entering military service. The Director of Selective Service shall cooperate with the Secretary of War and the Secretary of the Navy in carrying out the provisions of this section.

Sec. 106 [50 U.S.C. App. 516]. Any person who has been ordered to report for induction under the Selective Training and Service Act of 1940, as amended, shall be entitled to the relief and benefits accorded persons in military service under articles I, II, and III of this Act during the period beginning on the date of receipt of such order and ending on the date upon which such person reports for induction; and any member of the Enlisted Reserve Corps who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on the date of receipt of such order and ending on the date upon which he reports for such service.

Sec. 107 [50 U.S.C. App. 517]. Nothing contained in this Act shall prevent—

(a) the modification, termination, or cancellation of any contract, lease, or bailment or any obligation secured by mortgage, trust, deed, lien, or other security in the nature of a mortgage, or

(b) the repossession, retention, foreclosure, sale, forfeiture, or taking possession of property which is security for any obligation or which has been purchased or received under a contract, lease, or bailment,

pursuant to a written agreement of the parties thereto (including the person in military service concerned, or the person to whom section 106 is applicable, whether or not such person is a party to the obligation), or their assignees executed during or after the period of military service of the person concerned or during the period specified in section 106.

ARTICLE II.—GENERAL RELIEF

SEC. 200 [50 U.S.C. App. 520]. (1) In any action or proceeding commenced in any court, if there shall be a default of any appearance by the defendant, the plaintiff, before entering judgment shall file in the court an affidavit setting forth facts showing that the defendant is not in military service. If unable to file such affidavit plaintiff shall in lieu thereof file an affidavit setting forth either that the defendant is in the military service or that plaintiff is not able to determine whether or not defendant is in such service. If an affidavit is not filed showing that the defendant is not in the military service, no judgment shall be entered without first securing an order of court directing such entry, and no such order shall be made if the defendant is in such service until after the court shall have appointed an attorney to represent defendant and protect his interest, and the court shall on application make such appointment. Unless it appears that the defendant is not in such service the court may require, as a condition before judgment is entered, that the plaintiff file a bond approved by the court conditioned to indemnify the defendant, if in military service, against any loss or damage that he may suffer by reason of any judgment should the judgment be thereafter set aside in whole or in part. And the court may make such other and further order or enter such judgment as in its opinion may be necessary to protect the rights of the defendant under this Act. Whenever, under the laws applicable with respect to any court, facts may be evidenced, established, or proved by an unsworn statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury, the filing of such an unsworn statement, declaration, verification, or certificate shall satisfy the requirement of this subdivision that facts be established by affidavit. (Amended P.L. 86-721, § 1.)

(2) Any person who shall make or use an affidavit required under this section, or a statement, declaration, verification, or certificate certified or declared to be true under penalty of perjury permitted under subdivision (1), knowing it to be false, shall be guilty of a misdemeanor and shall be punishable by imprisonment not to exceed one year or by fine not to exceed $1,000, or both. (Amended P.L. 86-721, § 2.)

(3) In any action or proceeding in which a person in military service is a party if such party does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him; and in such case a like bond may be required and an order made to protect the rights of such person. But no attorney appointed under this Act to protect a person in military service shall have power to waive any right of the person for whom he is appointed or bind him by his acts.

(4) If any judgment shall be rendered in any action or proceeding governed by this section against any person in military service during the period of such service or within thirty days thereafter, and it appears that such person was prejudiced by reason of his

military service in making his defense thereto, such judgment may, upon application, made by such person or his legal representative, not later than ninety days after the termination of such service, be opened by the court rendering the same and such defendant or his legal representative let in to defend; provided it is made to appear that the defendant has a meritorious or legal defense to the action or some part thereof. Vacating, setting aside, or reversing any judgment because of any of the provisions of this Act shall not impair any right or title acquired by any bona fide purchaser for value under such judgment.

Sec. 201 [50 U.S.C. App. 521]. At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act unless, in the opinion of the court, the ability of plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

Sec. 202 [50 U.S.C. App. 522]. When an action for compliance with the terms of any contract is stayed pursuant to this Act no fine or penalty shall accrue by reason of failure to comply with the terms of such contract during the period of such stay, and in any case where a person fails to perform any obligation and a fine or penalty for such nonperformance is incurred a court may, on such terms as may be just, relieve against the enforcement of such fine or penalty if it shall appear that the person who would suffer by such fine or penalty was in the military service when the penalty was incurred and that by reason of such service the ability of such person to pay or perform was thereby materially impaired.

Sec. 203 [50 U.S.C. App. 523]. In any action or proceeding commenced in any court against a person in military service, before or during the period of such service, or within sixty days thereafter, the court may, in its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of his military service—

(a) Stay the execution of any judgment or order entered against such person, as provided in this Act; and

(b) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this Act.

Sec. 204 [50 U.S.C. App. 524]. Any stay of any action, proceeding, attachment, or execution, ordered by any court under the provisions of this Act may, except as otherwise provided, be ordered for the period of military service and three months thereafter or any part of such period, and subject to such terms as may be just, whether as to payment in installments of such amounts and at such times as the court may fix or otherwise. Where the person in military service is a codefendant with others the plaintiff may nevertheless by leave of court proceed against the others.

Sec. 205 [50 U.S.C. App. 525]. The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any person in military service or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 [October 6, 1942], be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment.

Sec. 206 [50 U.S.C. App. 526]. No obligation or liability bearing interest at a rate in excess of 6 per centum per annum incurred by a person in military service prior to his entry into such service shall, during any part of the period of military service which occurs after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 [October 6, 1942], bear interest at a rate in excess of 6 per centum per annum unless, in the opinion of the court, upon application thereto by the obligee, the ability of such person in military service to pay interest upon such obligation or liability at a rate in excess of 6 per centum per annum is not materially affected by reason of such service, in which case the court may make such order as in its opinion may be just. As used in this section the term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) in respect of such obligation or liability.

Sec. 207 [50 U.S.C. App. 527]. Section 205 of this Act shall not apply with respect to any period of limitation prescribed by or under the internal revenue laws of the United States.

ARTICLE III.—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENTS, LEASES

Sec. 300 [50 U.S.C. App. 530]. (1) No eviction or distress shall be made during the period of military service in respect of any premises for which the agreed rent does not exceed $150 per month, occupied chiefly for dwelling purposes by the wife, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession. (Amended P.L. 89-358, § 10.)

(2) On any such application or in any such action the court may, in its discretion, on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of such military service, stay the proceedings for not longer than three months, as provided in this Act, or it may make such other order as may be just. Where such stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to relief in respect of such premises similar to that granted persons in military service in sections 301, 302, and 500 of this

Act to such extent and for such period as may appear to the court to be just.

(3) Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subsection (1) hereof, or attempts so to do, shall be guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by fine not to exceed $1,000, or both.

(4) The Secretary of War, the Secretary of the Navy, or the Secretary of the Treasury with respect to the Coast Guard, as the case may be, is hereby empowered, subject to such regulations as he may prescribe, to order an allotment of the pay of a person in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by the wife, children, or other dependents of such person.

Sec. 301 [50 U.S.C. App. 531]. (1) No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price, or a deposit or installment under the contract, lease, or bailment, from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction.

(2) Any person who shall knowingly resume possession of property which is the subject of this section otherwise than as provided in subsection (1) of this section or in section 107, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed $1,000, or both.

(3) Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, order a stay of proceedings as provided in this Act unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service; or it may make such other disposition of the case as may be equitable to conserve the interests of all parties.

Sec. 302 [50 U.S.C. App. 532]. The provisions of this section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of the military service and still so owned by him which obligations originated prior to such person's period of military service.

(2) In any proceedings commenced in any court during the period of military service to enforce such obligation arising out of nonpay-

ment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service—

(a) stay the proceedings as provided in this Act; or

(b) make such other disposition of the case as may be equitable to conserve the interests of all parties.

(3) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 [October 6, 1942,] and during the period of military service or within three months thereafter, except pursuant to an agreement as provided in section 107, unless upon an order previously granted by the court and a return thereto made and approved by the court.

(4) Any person who shall knowingly make or cause to be made any sale, foreclosure, or seizure of property, defined as invalid by subsection (3) hereof, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed $1,000, or both.

Sec. 303 [50 U.S.C. App. 533]. Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for the purchase thereof, has been stayed as provided in this Act, the court may, unless in its opinion an undue hardship would result to the dependents of the person in military service, appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order such sum, if any, as may be just, paid to the person in military service or his dependent, as the case may be, as a condition of foreclosing the mortgate, resuming possession of the property, or rescinding or terminating the contract.

Sec. 304 [50 U.S.C. App. 534]. (1) The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which (a) such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service, and (b) the premises so leased have been occupied for such purposes, or for a combination of such purposes, by such person or by him and his dependents.

(2) Any such lease may be terminated by notice in writing delivered to the lessor (or his grantee) or to the lessor's (or his grantee's) agent by the lessee at any time following the date of the beginning of his period of military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor (or his grantee) or to the lessor's (or his grantee's) agent and depositing the notice in the United States

mails. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be proratably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor (or his assignee). Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

(3) Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture, or other property, of any person who has lawfully terminated a lease covered by this section, or in any manner interfere with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment, not to exceed one year or by fine not to exceed $1,000, or both.

SEC. 305 [50 U.S.C. App. 535]. (1) Where any life insurance policy on the life of a person in military service has been assigned prior to such person's period of military service to secure the payment of any obligation of such person, no assignee of such policy (except the insurer in connection with a policy loan) shall, during the period of military service of the insured or within one year thereafter, except upon the consent in writing of the insured made during such period or when the premiums thereon are due and unpaid or upon the death of the insured, exercise any right or option by virtue of such assignment unless upon leave of court granted upon an application made therefor by such assignee. The court may thereupon refuse to grant such leave unless in the opinion of the court the ability of the obligor to comply with the terms of the obligation is not materially affected by reason of his military service. For the purpose of this subsection premiums which are guaranteed under the provisions of article IV of this Act shall not be deemed to be due and unpaid.

(2) No person shall exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a person in military service during such person's period of military service and for three months thereafter except upon an order previously granted by a court upon application therefor and a return thereto made and approved by the court. In such proceeding the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to pay the storage charge due is not materially affected by reason of his military service—

(a) stay the proceedings as provided in this Act; or

(b) make such other disposition of the case as may be equitable to conserve the interest of all parties.

The enactment of the provisions of this subsection shall not be construed in any way as affecting or as limiting the scope of section 302 of this Act.

(3) Any person who shall knowingly take any action contrary to the provisions of this section, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed $1,000, or both.

Sec. 306 [50 U.S.C. App. 536]. Dependents of a person in military service shall be entitled to the benefits accorded to persons in military service under the provisions of this article upon application to a court therefor, unless in the opinion of the court the ability of such dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the person upon whom the applicants are dependent.

ARTICLE IV.—INSURANCE

Sec. 400 [50 U.S.C. App. 540]. As used in this article—

(a) The term "policy" shall include any contract of life insurance or policy on a life, endowment, or term plan, including any benefit in the nature of life insurance arising out of membership in any fraternal or beneficial association, which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums if the insured engages in the military service of the United States as defined in section 101 of article I of this Act or which does not contain any limitation or restriction upon coverage relating to engagement in or pursuit of certain types of activities which a person might be required to engage in by virtue of his being in such military service, and (1) which is in force on a premium-paying basis at the time of application for benefits hereunder, and (2) which was made and a premium paid thereon before the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 [October 6, 1942,] or not less than one hundred and eighty days before the date the insured entered into the military service. The provisions of this Act shall not be applicable to policies or contracts of life insurance issued under the War Risk Insurance Act, as amended, the World War Veterans Act, as amended, or the National Service Life Insurance Act of 1940, as amended. (Amended P.L. 84-697.)

(b) The term "premium" shall include the amount specified in the policy as the stipend to be paid by the insured at regular intervals during the period therein stated.

(c) The term "insured" shall include any person in the military service of the United States as defined in section 101, article I, of this Act, whose life is insured under and who is the owner and holder of and has an interest in a policy as above defined.

(d) The term "insurer" shall include any firm, corporation, partnership, or association chartered or authorized to engage in the insurance business and to issue a policy as above defined by the laws of a State of the United States or the United States.

Sec. 401 [50 U.S.C. App. 541]. The benefits and privileges of this article shall apply to any insured, when such insured, or a person designated by him, or, in case the insured is outside the continental United States (excluding Alaska and the Panama Canal Zone), a beneficiary, shall make written application for protection under this article, unless the Administrator of Veterans' Affairs in passing upon such application as provided in this article shall find that the policy is not entitled to protection hereunder. The Veterans' Administration shall give notice to the military and naval authorities of the provisions of this article, and shall include in such notice an explanation of such provisions for the information of those desiring to make application for the benefits thereof. The original of such application shall be sent by the insured to the insurer, and a copy thereof to the Veterans' Administration. The total amount of insurance on the life of one insured under policies protected by the provisions of this article shall not exceed $10,000. If an insured makes application for protection of policies on his life totaling insurance in excess of $10,000, the Administrator is authorized to have the amount of insurance divided into two or more policies so that the protection of this article may be extended to include policies for a total amount of insurance not to exceed $10,000, and a policy which affords the best security to the Government shall be given preference.

Sec. 402 [50 U.S.C. App. 542]. Any writing signed by the insured and identifying the policy and the insurer, and agreeing that his rights under the policy are subject to and modified by the provisions of this article, shall be sufficient as an application for the benefits of this article, but the Veterans' Administration may require the insured and insurer to execute such other forms as may be deemed advisable. Upon receipt of the application of the insured the insurer shall furnish such report to the Veterans' Administration concerning the policy as shall be prescribed by regulations. The insured who has made application for protection under this article and the insurer shall be deemed to have agreed to such modification of the policy as may be required to give this article full force and effect with respect to such policy.

Sec. 403 [50 U.S.C. App. 543]. The Administrator of Veterans' Affairs shall find whether the policy is entitled to protection under this article and shall notify the insured and the insurer of such finding. Any policy found by the Administrator of Veterans' Affairs to be entitled to protection under this article shall not, subsequent to date of application, and during the period of military service of the insured or during two years after the expiration of such service, lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest.

Sec. 404 [50 U.S.C. App. 544]. No dividend or other monetary benefit under a policy shall be paid to an insured or used to purchase dividend additions while a policy is protected by the provisions of this article except with the consent and approval of the Veterans' Administration. If such consent is not procured, such dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer. No cash value, loan value, or withdrawal of dividend accumulation, or unearned premium, or other value of similar character shall be available to the insured while the policy is protected under this article except upon approval by the Veterans' Administration. The insured's right to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this article.

Sec. 405 [50 U.S.C. App. 545]. In the event of maturity of a policy as a death claim or otherwise before the expiration of the period of protection under the provisions of this article, the insurer in making settlement will deduct from the amount of insurance the premiums guaranteed under this article, together with interest thereon at the rate fixed in the policy for policy loans. If no rate of interest is specifically fixed in the policy, the rate shall be the rate fixed for policy loans in other policies issued by the insurer at the time the policy brought under the Act was issued. The amount deducted by reason of the protection afforded by this article shall be reported by the insurer to the Administrator of Veterans' Affairs.

Sec. 406 [50 U.S.C. App. 546]. Payment of premiums and interest thereon at the rate specified in section 405 hereof becoming due on a policy while protected under the provisions of this article is guaranteed by the United States, and if the amount so guaranteed is not paid to the insurer prior to the expiration of the period of insurance protection under this article, the amount then due shall be treated by the insurer as a policy loan on such policy, but if at the expiration of said period the cash surrender value is less than the amount then due, the policy shall then cease and terminate and the United States shall pay the insurer the difference between such amount and the cash surrender value. The amount paid by the United States to an insurer on account of applications approved under the provisions of this article as amended, shall become a debt due to the United States by the insured on whose account payment was made and, notwithstanding any other Act, such amount may be collected either by deduction from any amount due said insured by the United States or as otherwise authorized by law. Any moneys received as repayment of debts incurred under this article, as originally enacted and as amended, shall be credited to the appropriation for the payment of claims under this article.

Sec. 407 [50 U.S.C. App. 547]. The Administrator of Veterans' Affairs is hereby authorized and directed to provide by regulations for such rules of procedures and forms as he may deem advisable in carrying out the provisions of this article. The findings of fact and conclusions of law made by the Administrator of Veterans' Affairs in administering the provisions of this article shall be final, and shall not be subject to review by any other official or agency of the Government.

Sec. 408 [50 U.S.C. App. 548]. (1) The provisions of this article in force immediately prior to the enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942 [October 6, 1942,] (hereinafter in this section called "such provisions") shall remain in full force and effect with respect to all valid applications for protection executed prior to the date of enactment of the Soldiers' and Sailors'

Civil Relief Act amendments of 1942 [October 6, 1942,] and all policies to which such applications pertain shall continue to be entitled to the protection granted thereby.

(2) Any insurer under a policy accepted under such provisions shall, subject to the approval of the Administrator of Veterans' Affairs and upon complete surrender by it to the United States, within ninety days after the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942, of all certificates issued in accordance with such provisions together with all right to payment thereunder, be entitled to the guarantee of unpaid premiums and interest thereon and the mode of settlement for such policies as provided by this article, as amended. The privileges and benefits granted by the foregoing sentence shall be in lieu of the method of settlement, and the requirement for accounts and reports prescribed by such provisions. In the event any such insurer fails to surrender within the said ninety days all such certificates and rights to payment, the accounts, reports, and settlements required to be made by such insurer under such provisions shall continue to be made as required and shall be governed by such provisions.

ARTICLE V.—TAXES AND PUBLIC LANDS

SEC. 500 [50 U.S.C. App. 560]. (1) The provisions of this section shall apply when any taxes or assessments, whether general or special (other than taxes on income), whether falling due prior to or during the period of military service, in respect of personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees are not paid.

(2) No sale of such property shall be made to enforce the collection of such tax or assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this Act, for a period extending not more than six months after the termination of the period of military service of such person.

(3) When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than six months after the termination of such service, but in no case later than six months after the date when this Act ceases to be in force; but this shall not be taken to shorten any period, now or hereafter provided by the laws of any State or Territory for such redemption.

(4) Whenever any tax or assessment shall not be paid when due, such tax or assessment due and unpaid shall bear interest until paid at the rate of 6 per centum per annum, and no other penalty

or interest shall be incurred by reason of such nonpayment. Any lien for such unpaid taxes or assessment shall also include such interest thereon.

Sec. 501 [50 U.S.C. App. 561]. (1) No right to any lands owned or controlled by the United States initiated or acquired under any laws of the United States, including the mining and mineral leasing laws, by any person prior to entering military service shall during the period of such service be forfeited or prejudiced by reason of his absence from the land or his failure to perform any work or make any improvements thereon or his failure to do any other act required by or under such laws.

(2) If a permittee or licensee under the Act of June 28, 1934 (48 Stat. 1269), enters military service he may elect to suspend his permit or license for the period of his military service and six months thereafter, and the Secretary of the Interior by regulations shall provide for such suspension of permits and licenses and for the remission, reduction, or refund or grazing fees during such suspension.

(3) This section shall not be construed to control specific requirements contained in this article.

Sec. 502 [50 U.S.C. App. 562]. If any person whose application for a homestead entry has been allowed or who has made application for homestead entry which may thereafter be allowed, after such entry or application enters military service, or if any person who has a valid settlement claim enters military service, the Department of the Interior shall construe his military service to be equivalent to residence and cultivation upon the tract entered or settled upon for the period of such service. From the effective date of this Act no contest shall be initiated on the ground of abandonment and no allegation of abandonment shall be sustained against any such person, unless it shall be alleged in the preliminary affidavit or affidavits of contest and proved at the hearing in cases initiated subsequent to the effective date of this Act that the alleged absence from the land was not due to such military service. If such person is discharged on account of wounds received or disability incurred in the line of duty, the term of his enlistment and any period of hospitalization due to such wounds or disability shall be deducted from the required length of residence, without reference to the time of actual service. No patent shall issue to any such person who has not resided upon, improved, and cultivated his homestead for a period of at least one year.

Sec. 503 [50 U.S.C. App. 563]. (1) If any person whose application for a homestead entry has been allowed or who has made application for homestead entry which may thereafter be allowed or who has a valid settlement claim dies while in military service or as a result of such service, his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or their legal representatives, may proceed forthwith to make final proof upon such entry or upon an application which is allowed after the applicant's death, or upon a homestead application thereafter allowed based on a valid settlement claim, and shall be entitled to receive a patent for such land. The death of such person while in military service or as a result of such service shall be construed to be equivalent to a performance of all requirements as to residue and cultivation upon such homestead or claim, notwithstanding the provisions of section 502 of this Act.

(2) If such person is honorably discharged and because of physical incapacities due to such service is unable to return to the land, he may make final proof without further residence, improvement, or cultivation, at such time and place as the Secretary of the Interior may authorize, and receive a patent to the land entered.

(3) The Act of July 28, 1917 (40 Stat. 248), is repealed.

SEC. 504 [50 U.S.C. App. 564]. (1) No desert-land entry made or held under the desert-land laws prior to the entrance of the entryman or his successor in interest into military service shall be subject to contest or cancellation for failure to make or expend the sum of $1 per acre per year in improvements upon the claim or to effect the reclamation of the claim during the period the entryman or his successor in interest is engaged in military service or during a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in the line of duty. The time within which such entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of his period of service and the six-months' period and any such period of hospitalization.

(2) If such entryman or claimant is honorably discharged and because of physical incapacities due to such service is unable to accomplish reclamation of, and payment for, the land, he may make proof without further reclamation or payments under such rules as the Secretary of the Interior may prescribe and receive patent for the land entered or claimed.

(3) In order to obtain the benefits of this section, such entryman or claimant shall, within six months after the effective date of this Act [October 17, 1942,] or within six months after his entrance into military service, file or cause to be filed in the land office of the district in which his claim is situated a notice that he has entered military service and that he desires to hold the desert claim under this section.

SEC. 505 [50 U.S.C. App. 565]. (1) The provisions of section 2324 of the Revised Statutes of the United States, which require that on each mining claim located after May 10, 1872, and until patent has been issued therefor not less than $100 worth of labor shall be performed or improvements made during each year, shall not apply during the period of his service, or until six months after the termination of such service, or during any period of hospitalization because of wounds or disability incurred in line of duty, to claims or interests in claims which are owned by a person in military service and which have been regularly located and recorded. No mining claim or any interest in a claim which is owned by such a person and which has been regularly located and recorded shall be subject to forfeiture by nonperformance of the annual assessments during the period of such military service, or until six months after the termination of such service or of such hospitalization.

(2) In order to obtain the benefits of this section, the claimant of any mining location shall, before the expiration of the assessment year during which he enters military service, file or cause to be

filed in the office where the location notice or certificate is recorded a notice that he has entered such service and that he desires to hold his mining claim under this section.

Sec. 506 [50 U.S.C. App. 566]. (1) Any person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may, at his election, suspend all operations under his permit or lease for a period of time equivalent to the period of his military service and six months thereafter. The term of the permit or lease shall not run during such period of suspension nor shall any rentals or royalties be charged against the permit or lease during the period of suspension.

(2) In order to obtain the benefit of this section, such permittee or lessee shall, within six months after the effective date of this Act [October 17, 1940,] or six months after his entrance into military service, notify the General Land Office [now Bureau of Land Management] by registered mail of his entrance into such service and of his desire to avail himself of the benefits of this section.

(3) This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

Sec. 507 [50 U.S.C. App. 567]. Nothing in this article shall be construed to limit or affect the right of a person in military service to take any action during his period of service which may be authorized by law or the regulations of the Department of the Interior for the perfection, defense, or further assertion of rights initiated or acquired prior to the date of entering military service. It shall be lawful for any person while in such service to make any affidavit or submit any proof which may be required by law or the practice or regulations of the Bureau of Land Management in connection with the entry, perfection, defense, or further assertion of any rights initiated or acquired prior to entering such service, before the officer in immediate command and holding a commission in the branch of the service in which the person is engaged. Such affidavits shall be as binding in law and with like penalties as if taken before a register of a United States land office. The Secretary of the Interior may issue rules and regulations to effectuate the purposes of sections 501 to 512, inclusive.

Sec. 508 [50 U.S.C. App. 568]. The Secretary of the Interior is hereby authorized in his discretion, to suspend as to persons in military service during the period while this Act remains in force and for a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in line of duty that provision of the act known as the "Reclamation Act" requiring residence upon lands in private ownership or within the neighborhood for securing water for the irrigation of the same [43 U.S.C. 431], and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper.

Sec. 509 [50 U.S.C. App. 569]. The Secretary of the Interior shall issue through appropriate military and naval channels a notice for distribution by appropriate military and naval authorities to persons in the military service explaining the provisions of this article except as to sections 500, 513, and 514 hereof and shall furnish forms to be distributed in like manner to those desiring to make application for its benefits, except as to said sections.

SEC. 510 [50 U.S.C. App. 570]. (1) During the pendency of any war in which the United States may be engaged while this Act remains in force any homestead entryman shall be entitled to a leave of absence from his entry for the purpose of performing farm labor. The time actually spent in farm labor shall be counted as constructive residence, if within fifteen days after leaving his entry to engage in such labor the entryman files a notice of absence in the land office of the district in which his entry is situated, and if at the expiration of the calendar year the entryman files in that office a written statement under oath and corroborated by two witnesses giving the date or dates when he left his entry, the date or dates of his return, and the place where and person for whom he was engaged in farm labor during such period or periods of absence.

(2) Nothing in this section shall excuse any homestead entryman from making improvements or performing the cultivation upon his entry required by law. The provisions of this section shall apply only to persons whose applications have been allowed or filed prior to the effective date of this Act [October 17, 1940,].

SEC. 511 [50 U.S.C. App. 571]. Any person under the age of twenty-one who serves in the military service while this Act remains in force shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including the mining and mineral leasing laws, as those over twenty-one now possess under such laws. Any requirements as to establishment of residence within a limited time shall be suspended as to entry by such person until six months after his discharge from military service. Applications for entry may be verified before any officer in the United States or any foreign country authorized to administer oaths by the laws of the State or Territory in which the land may be situated.

SEC. 512 [50 U.S.C. App. 572]. Citizens of the United States who serve with the forces of any nation with which the United States may be allied in the prosecution of any war in which the United States engages while this Act remains in force shall be entitled to the relief and benefits afforded by sections 501 to 511, inclusive, if such service is similar to military service as defined in this Act, and if they are honorably discharged and resume United States citizenship or die in the service of the allied forces or as a result of such service.

SEC. 513 [50 U.S.C. App. 573]. The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during his period of military service, shall be deferred for a period extending not more than six months after the termination of his period of military service if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of such nonpayment. The running of any statute of limitations against the collection of such tax by distraint or otherwise shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day following the period of military service. The provisions of this section shall not apply to the income tax on employees imposed by section 1400 of the Federal Insurance Contributions Act.

Sec. 514 [50 U.S.C. App. 574]. For the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the personal property, income, or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, and personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or District. Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any tax jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders: *Provided,* That nothing contained in this section shall prevent taxation by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction. This section shall be effective as of September 8, 1939, except that it shall not require the crediting or refunding of any tax paid prior to October 6, 1942. (Amended P.L. 87-771.)

(2) When used in this section, (a) the term "personal property" shall include tangible and intangible property (including motor vehicles), and (b) the term "taxation" shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: *Provided,* That the license, fee, or excise required by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid.

ARTICLE VI.—ADMINISTRATIVE REMEDIES

Sec. 600 [50 U.S.C. App. 580]. Where in any proceeding to enforce a civil right in any court it is made to appear to the satisfaction of the court that any interest, property, or contract has since the date of the approval of this Act [October 17, 1940,] been transferred or acquired with intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made, the provisions of this Act to the contrary notwithstanding.

SEC. 601 [50 U.S.C. App. 581]. (1) In any proceeding under this Act a certificate signed by The Adjutant General of the Army as to persons in the Army or in any branch of the United States service while serving pursuant to law with the Army of the United States, signed by the Chief of the Bureau of Navigation of the Navy Department [now Chief of Naval Personnel] as to persons in the United States Navy or in any branch of the United States service while serving pursuant to law with the United States Navy, and signed by the Commandant, United States Marine Corps, as to persons in the Marine Corps, or in any other branch of the United States service while serving pursuant to law with the Marine Corps, or signed by an officer designated by any of them, respectively, for the purpose, shall when produced by prima facie evidence as to any of the following facts stated in such certificate:

That a person named has not been, or is, or has been in military service; the time when and the place where such person entered military service, his residence at that time, and the rank, branch, and unit of such service that he entered, the dates within which he was in military service, the monthly pay received by such person at the date of issuing the certificate, the time when and the place where such person died in or was discharged from such service.

(2) It shall be the duty of the foregoing officers to furnish such certificate on application, and any such certificate when purporting to be signed by any one of such officers or by any person purporting upon the face of the certificates to have been so authorized shall be prima facie evidence of its contents and of the authority of the signer to issue the same.

(3) Where a person in military service has been reported missing he shall be presumed to continue in the service until accounted for, and no period herein limited which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or found by the Department of War or the Navy, or any court, or board thereof, or until such death is found by a court of competent jurisdiction: *Provided*, That no period herein limited which begins or ends with the death of such person shall be extended hereby beyond a period of six months after the time when this Act ceases to be in force.

SEC. 602 [50 U.S.C. App. 582]. Any interlocutory order made by any court under the provisions of this Act may, upon the court's own motion or otherwise, be revoked, modified, or extended by it upon such notice to the parties affected as it may require.

SEC. 603 [50 U.S.C. App. 583]. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 604 [50 U.S.C. App. 584]. This Act shall remain in force until May 15, 1945: *Provided*, That should the United States be then engaged in a war, this Act shall remain in force until such war is terminated by a treaty of peace proclaimed by the President and for six months thereafter: *Provided further*, That wherever under any ~~section or~~ provision of this Act a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed prior to the date herein fixed for the termination of this Act, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.[1]

SEC. 605 [50 U.S.C. App. 585]. The provisions of section 4 of the joint resolution approved August 27, 1940 (Public Resolution Numbered 96, Seventy-sixth Congress), and the provisions of section 13 of the Selective Training and Service Act of 1940, shall not be applicable with respect to any military service performed after the date of enactment of this Act.

ARTICLE VII.—FURTHER RELIEF

SEC. 700 [50 U.S.C. App. 590]. (1) A person may, at any time during his period of military service or within six months thereafter, apply to a court for relief in respect of any obligation or liability incurred by such person prior to his period of military service or in respect of any tax or assessment whether falling due prior to or during his period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of his military service, may grant the following relief:

(a) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of such obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during such combined period at such rate of interest on the unpaid balance as is prescribed in such contract, or other instrument evidencing the obligation, for installments paid when due, and subject to such other terms as may be just.

(b) In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period of time equal to the period of military service of the applicant or any part of such period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of such period of military service or the date of application, as the case may be, in equal periodic installments during such extended period at such rate of interest as may be prescribed for such obligation, liability, tax, or assessment, if paid when due, and subject to such other terms as may be just.

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[1] Section 14 of the Military Selective Service Act (50) U.S.C. App. 464) provides that, notwithstanding section 664, this Act shall remain in force until terminated by an Act of Congress.

(2) When any court has granted a stay as provided in this section no fine or penalty shall accrue during the period the terms and conditions of such stay are complied with by reason of failure to comply with the terms or conditions of the obligations, liability, tax, or assessment in respect of which such stay was granted.

Sec. 701 (a) Notwithstanding any other provision of law, a power of attorney which—

(1) was duly executed by a person in the military service who is in a missing status (as defined in section 551(2) of title 37, United States Code);

(2) designates that person's spouse, parent, or other named relative as his attorney in fact for certain specified, or all, purposes; and

(3) expires by its terms after that person entered a missing status, and before or after the effective date of this section;

shall be automatically extended for the period that the person is in a missing status. (Added P.L. 92-540, § 504(2).)

(b) No power of attorney executed after the effective date of this section by a person in the military service may be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though that person, after the date of execution of the document, enters a missing status. (Added P.L. 92-540, § 504(2).)

(c) This section applies only to persons in military service who executed powers of attorney during the Vietnam era (as defined in section 101(29) of title 38, United States Code). (Added P.L. 92-540, § 504(2).)

CROSS REFERENCES IN TITLE 38—VETERANS' BENEFITS

(Current through the beginning of the 1st session, 100th Congress)

Section	*Referred to in*
101	Sections 901, 3102, 5011A of this title; title 5 sections 2108, 3501, 5532, 6303, 8706; title 20 section 1070e-1; title 42 sections 410, 1477; title 49 App. section 2214.
103	Section 3010 of this title.
104	Section 414 of this title.
106	Section 402 of this title.
107	Section 725 of this title.
111	Sections 601, 614, 620, 628, 1504 of this title.
210	Section 621 of this title.
211	Section 4004 of this title.
213	Section 5010 of this title.
214	Sections 221, 222, 245, 618, 654, 664, 1521, 1833 of this title.
218	Section 4107 of this title.
219	Section 3301 of this title.
223	Section 211 of this title.
241	Section 2014 of this title.
242	Section 2003A of this title.
243	Section 2014 of this title.
301	Title 5 sections 3501, 5532, 6303, 8332.
310	Sections 311, 312, 314 of this title.
311	Section 337 of this title.
312	Sections 313, 337 of this title.
313	Sections 312, 337 of this title.
314	Sections 315, 334, 617, 1508, 3113, 3203 of this title.
315	Section 335 of this title.
321	Section 3113 of this title.
322	Sections 321, 342 of this title.
331	Sections 332, 333, 334 of this title; title 10 section 6148.
332	Section 337 of this title.
333	Section 337 of this title.
334	Sections 314, 335, 617 of this title.
341	Sections 342, 3113 of this title.
351	Sections 610, 612, 3010, 3113 of this title.
355	Sections 223, 4052, 4092.
401	Title 42 section 409.
402	Section 411 of this title.
411	Sections 418, 3010 of this title; title 10 sections 1448, 1450.
412	Sections 107, 415, 422 of this title.
414	Title 7 section 2012.
415	Sections 416, 3112 of this title; title 42 section 8624.

503	Sections 111, 610, 612 of this title.
506	Section 507 of this title.
511	Sections 534, 535 of this title.
512	Sections 536, 537 of this title.
521	Sections 111, 506, 508, 511, 512, 522, 523, 541, 542, 610, 612, 622, 3023, 3104, 3112, 3203 of this title; title 42 section 8624.
522	Section 622 of this title.
524	Section 1797 of this title.
525	Section 524 of this title.
532	Section 533 of this title.
534	Section 535 of this title.
536	Section 537 of this title.
541	Sections 506, 508, 536, 542, 543, 3023, 3104, 3112 of this title; title 42 section 8624.
542	Sections 506, 508, 541, 543, 3023, 3112 of this title; title 42 section 8624.
544	Section 536 of this title.
560	Sections 561, 562 of this title.
561	Section 562 of this title.
562	Sections 560, 561 of this title; title 26 sections 132, 6334.
601	Sections 612A, 903, 5011, 5011A of this title.
603	Sections 610, 612A, 903 of this title.
610	Sections 601, 603, 612, 620B, 622, 641, 903, of this title.
611	Sections 612A, 903, 5011 of this title.
612	Sections 525, 601, 603, 610, 612A, 617, 618, 620, 622, 663, 804, 5010, 5011A of this title.
612A	Sections 603, 2002A, 2003, 2003A, 2004, 2014 of this title; title 20 section 1070e–1; title 29 section 1721.
613	Sections 601, 5011, 5202, 5220, 5221 of this title.
617	Section 612 of this title.
618	Section 113 of this title.
620	Sections 603, 610, 624, 641, 642, 903, 5005, 5034 of this title.
620A	Sections 603, 1721 of title 29.
622	Sections 610, 612 of this title.
624	Sections 603, 622, 632 of this title.
632	Section 603 of this title.
641	Section 5022 of this title.
662	Section 601 of this title.
702	Sections 726, 727, 729 of this title.
703	Section 727 of this title.
707	Sections 703, 741 of this title.
711	Section 710 of this title.
712	Sections 704, 713, 722 of this title.
715	Section 707 of this title.
716	Section 711 of this title.
717	Section 722 of this title.
719	Section 113 of this title.
720	Section 113 of this title.
722	Sections 107, 113, 704, 712, 715, 718 of this title.
723	Sections 113, 704, 726, 727, 729 of this title.
725	Sections 113, 704, 726, 727, 729 of this title.
744	Sections 761, 762 of this title.
754	Section 747 of this title.

755	Section 113 of this title.
765	Sections 767, 768, 769, of this title.
766	Sections 765, 767, 768, 769, 770, 771, 772, 777 of this title.
767	Sections 768, 777 of this title.
768	Section 777 of this title.
769	Sections 770, 771 of this title.
770	Section 777 of this title.
771	Sections 769, 777 of this title.
773	Section 779 of this title.
775	Section 211 of this title.
777	Section 768 of this title.
782	Sections 725, 769 of this title.
784	Sections 108, 211, 747, 785, 3405 of this title.
801	Sections 802, 804 of this title.
804	Section 802 of this title.
901	Section 113 of this title.
902	Sections 113, 903, 904, 907, 908 of this title; title 50 App. section 461.
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906	Section 113 of this title.
907	Sections 113, 908 of this title.
908	Section 113 of this title.
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1411	Sections 1412, 1413, 1415, 1416, 1417, 1418, 1421, 1431, 3103A of this title.
1412	Sections 1413, 1416, 1417, 1418, 1421, 1431, 3103A of this title.
1415	Sections 1432, 1435 of this title.
1418	Sections 1413, 1415, 1416, 1417, 1421 of this title.
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1501	Section 1795 of this title.
1502	Sections 1503, 1506, 1513, 1520 of this title.
1504	Sections 363, 524, 1505, 1506, 1508, 1517, 1520 of this title.
1505	Sections 1506, 1508 of this title.
1506	Sections 363, 1505, 1507, 1508, 1509, 1518, 1520, 2011 of this title.
1507	Sections 524, 1506, 1520 of this title.
1508	Sections 1504, 1506, 1512, 1780 of this title.
1512	Section 1504 of this title.
1515	Section 1508 of this title.
1517	Section 1506 of this title.
1520	Section 1509 of this title.
1622	Sections 1623, 1643 of this title.
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1652	Sections 524, 1402, 1501, 1602, 1661, 1786, 1787 of this title; title 20 section 1070d.

1656	Section 1770 of this title.
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1662	Sections 1712, 1798 of this title.
1663	Sections 1434, 1641 of this title.
1670	Sections 1434, 1641 of this title.
1671	Sections 1434, 1641, 1682, 1691 of this title.
1673	Sections 1434, 1641, 1691 of this title.
1674	Sections 1434, 1641 of this title.
1676	Sections 1434, 1641 of this title.
1681	Section 1691 of this title.
1682	Sections 1402, 1434, 1691, 1692, 1732, 1780 of this title.
1683	Sections 1434, 1641, 1770 of this title.
1685	Sections 241, 246, 612A, 1434, 1504 of this title; title 20 section 1070e-1.
1689	Section 1641 of this title.
1691	Sections 1631, 1641, 1662, 1673, 1733, 1780, 1788 of this title.
1692	Sections 246, 1419, 1634, 1733 of this title; title 20 section 1070e-1.
1701	Sections 240, 1711, 1712, 1740, 1763, 1765, 1786, 1787, of this title.
1711	Sections 1712, 1733, 1741 of this title.
1712	Sections 1701, 1765 of this title.
1720	Section 1761 of this title.
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1775	Sections 1652, 1701, 1776, 1788 of this title.
1776	Sections 1775, 1786 of this title.
1777	Sections 1772, 1787 of this title.
1779	Section 1770 of this title.
1780	Sections 1434, 1508, 1784, of this title.
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1786	Sections 1434, 1684, 1734, 1780 of this title.
1787	Sections 1402, 1434, 1516, 1602, 1641, 1682, 1684, 1734, 1772, 1780, 2002A, 2003A, of this title; title 29 section 1721.
1788	Sections 1682, 1780 of this title.
1789	Section 1673 of this title.
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1795	Sections 1413, 1631 of this title.
1798	Section 1799 of this title.
1801	Section 3102 of this title.
1802	Sections 1803, 1810, 1812, 1814, 1831, 1844 of this title.
1803	Sections 1810, 1812, 1832 of this title.
1804	Sections 1806, 1810, 1811, 1812 of this title.
1810	Sections 1801, 1803, 1811, 1812, 1813, 1814, 1832, 1833 of this title.
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1814	Sections 1804, 1829 of this title.
1820	Section 3301 of this title; title 28 section 2410.

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1902	Section 1903 of this title.
1903	Sections 1902, 1904 of this title.
2002	Title 42 section 1101.
2002A	Sections 2002, 2003A, 2004, 2006, 2007, 2010 of this title.
2003	Sections 612A, 2002A, 2003A of this title; title 42 section 1101.
2003A	Sections 612A, 1517, 1772, 2002A, 2003, 2004A, 2006, 2007 of this title; title 29 section 1721.
2004	Sections 612A, 2002A, 2003A, 2004A, 2006, 2007 of this title.
2006	Section 2007 of this title.
2007	Sections 2003, 2012 of this title.
2009	Sections 2002A, 2006 of this title.
2011	Sections 2001, 2014 of this title; title 15 section 1022a; title 42 section 6706.
2012	Sections 1516, 2002A, 2003, 2004 of this title; title 29 section 1755.
2021	Sections 2022, 2023, 2024 of this title; title 10 section 706.
2023	Title 5 section 1205.
2024	Section 2022 of this title.
3001	Section 3010 of this title.
3005	Section 3001 of this title; title 42 section 402.
3008	Section 4004 of this title.
3010	Sections 3011, 3110, 3503 of this title.
3021	Section 3022 of this title.
3022	Section 3021 of this title.
3101	Section 708 of this title; title 26 section 132; title 42 section 417.
3102	Sections 1780, 1785, 1813, 3114, 3115, 3301 of this title.
3103	Section 1503 of this title.
3105	Sections 3011, 3101, 3104 of this title.
3107	Section 3113 of this title.
3108	Section 3109 of this title.
3109	Section 3108 of this title.
3110	Section 3011 of this title.
3112	Sections 415, 521, 541, 542, 622, 3012 of this title; title 7 section 2014.
3202	Section 1701 of this title.
3203	Sections 314, 3012 of this title.
3301	Sections 629, 3302, 4005, 4132 of this title.
3305	Section 4152 of this title.
3324	Section 4142 of this title.
3402	Sections 216, 611 of this title.
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4002	Section 4001 of this title.
4003	Section 4001 of this title.
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4009	Section 3301 of this title.
4061	Section 452 of this title.
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4085	Section 4083 of this title.
4092	Section 4052, 4091 of this title.
4101	Sections 1904, 4107, 4121, 4162, 5070, 5096 of this title.
4103	Sections 4101, 4107, 4111, 4113, 4114 of this title.
4104	Sections 4101, 4105, 4106, 4107, 4110, 4111, 4113, 4114, 4312 of this title.
4105	Sections 4114, 4304 of this title.
4106	Section 4114 of this title.
4107	Sections 218, 4118, 4312 of this title; title 5 sections 6123, 6128.
4108	Section 4316 of this title.
4111	Sections 4108, 4114 of this title.
4112	Sections 4108, 4124, 5055, 5070 of this title.
4114	Sections 4101, 4105, 4108, 4111, 4113 of this title; title 5 section 5102.
4116	Sections 223, 612 of this title.
4117	Section 5010 of this title.
4118	Sections 4107, 4120 of this title; title 5 section 5102.
4119	Section 4114 of this title.
4120	Section 4107 of this title.
4131	Section 4134 of this title.
4132	Sections 629, 653, 4134 of this title.
4133	Section 4134 of this title.
4134	Sections 4131, 4132, 4133 of this title.
4151	Section 4152 of this title.
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4304	Sections 4303, 4312, 4322 of this title.
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4331	Sections 4313, 4322 of this title.
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5011	Sections 5004, 5010 of this title.
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5012	Section 5070 of this title.
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5032	Section 5033 of this title.
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5054	Section 5055 of this title.
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5220	Sections 5221, 5226 of this title.
5223	Section 5103 of this title.

ACTS AMENDING TITLE 38

Public Law and Section	Date	Statute
Pub. L. 85-857, § 1	Sept. 2, 1958	72 Stat. 1105 (Title 38, §§ 101-5228)
Pub. L. 85-782, § 2	Aug. 27, 1958	72 Stat. 936 (Title 38, § 314)
Pub. L. 85-896	Sept. 2, 1958	72 Stat. 1716 (Title 38, § 723)
Pub. L. 86-70, § 29	June 25, 1959	73 Stat. 148 (Title 38, §§ 903,2007)
Pub. L. 86-73	June 30, 1959	73 Stat. 156 (Title 38, §§ 1802, 1803, 1804, 1823)
Pub. L. 86-103	July 23, 1959	73 Stat. 224 (Title 38, § 230)
Pub. L. 86-109	July 28, 1959	73 Stat. 258 (Title 38, § 4202)
Pub. L. 86-113	July 28, 1959	73 Stat. 262 (Title 38, § 3103)
Pub. L. 86-116	July 28, 1959	73 Stat. 265 (Title 38, § 235)
Pub. L. 86-146	Aug. 7, 1959	73 Stat. 297 (Title 38, §§ 3202, 3203)
Pub. L. 86-150	Aug. 11, 1959	73 Stat. 332 (Title 38, § 1622)
Pub. L. 86-152	Aug. 11, 1959	73 Stat. 332 (Title 38, § 624)
Pub. L. 86-187	Aug. 25, 1959	73 Stat. 418 (Title 38, § 312)
Pub. L. 86-188	Aug. 25, 1959	73 Stat. 418 (Title 38, § 312)
Pub. L. 86-195	Aug. 25, 1959	73 Stat. 424 (Title 38, § 101)
Pub. L. 86-211, §§ 2-6	Aug. 29, 1959	73 Stat. 432 (Title 38, §§ 503, 506, 521, 522, 541-543, 617, 3203)
Pub. L. 86-212	Sept. 1, 1959	73 Stat. 436 (Title 38, § 358)
Pub. L. 86-222	Sept. 1, 1959	73 Stat. 452 (Title 38, §§ 3503-3505)
Pub. L. 86-236	Sept. 8, 1959	73 Stat. 471 (Title 38, § 1701)
Pub. L. 86-239	Sept. 8, 1959	73 Stat. 472 (Title 38, § 801)
Pub. L. 86-490	June 8, 1960	74 Stat. 161 (Title 38, § 3011)
Pub. L. 86-491	June 8, 1960	74 Stat. 161 (Title 38, § 302)
Pub. L. 86-492	June 8, 1960	74 Stat. 161 (Title 38, § 402)
Pub. L. 86-495	June 8, 1960	74 Stat. 163 (Title 38, § 3104)
Pub. L. 86-497	June 8, 1960	74 Stat. 164 (Title 38, § 712)
Pub. L. 86-499	June 8, 1960	74 Stat. 165 (Title 38, § 315)
Pub. L. 86-501	June 10, 1960	74 Stat. 195 (Title 38, § 359)
Pub. L. 86-507, § 1(32), (33).	June 11, 1960	74 Stat. 202 (Title 38, §§ 784, 5226)
Pub. L. 86-568 title I, § 114.	July 1, 1960	74 Stat. 300 (Title 38, §§ 4103, 4107, 4108)
Pub. L. 86-590	July 5, 1960	74 Stat. 329 (Title 38, § 111)
Pub. L. 86-598	July 7, 1960	74 Stat. 335 (Title 38, § 601)
Pub. L. 86-624, § 25	July 12, 1960	74 Stat. 418 (Title 38, §§ 624, 903, 2007)
Pub. L. 86-625	July 12, 1960	74 Stat. 424 (Title 38, § 641)
Pub. L. 86-639	July 12, 1960	74 Stat. 472 (Title 38, §§ 601, 612)
Pub. L. 86-663	July 14, 1960	74 Stat. 528 (Title 38, § 314)
Pub. L. 86-665	July 14, 1960	74 Stat. 531 (Title 38, §§ 1803, 1804, 1806, 1811, 1814, 1823-1825)
Pub. L. 86-670	July 14, 1960	74 Stat. 545 (Title 38, §§ 511, 512)
Pub. L. 86-721, § 3	Sept. 8, 1960	74 Stat. 820 (Title 38, § 1502)
Pub. L. 86-785	Sept. 14, 1960	74 Stat. 1023 (Title 38, §§ 1701, 1723)
Pub. L. 87-84	July 6, 1961	75 Stat. 201 (Title 38, §§ 1802, 1803, 1811, 1814, 1823)
Pub. L. 87-97	July 20, 1961	75 Stat. 215 (Title 38, § 4004)
Pub. L. 87-99	July 21, 1961	75 Stat. 218 (Title 38, § 903)
Pub. L. 87-101	July 21, 1961	75 Stat. 218 (Title 38, § 521)

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Pub. L. 87-102	July 21, 1961	75 Stat. 219 (Title 38, § 106)
Pub. L. 87-138, §§ 1-3	Aug. 14, 1961	75 Stat. 338 (Title 38, §§ 560-562)
Pub. L. 87-223	Sept. 13, 1961	75 Stat. 495 (Title 38, § 723)
Pub. L. 87-240	Sept. 14, 1961	75 Stat. 512 (Title 38, § 901)
Pub. L. 87-268	Sept. 21, 1961	75 Stat. 566 (Title 38, §§ 107, 411, 412, 415, 422, 503)
Pub. L. 87-314	Sept. 26, 1961	75 Stat. 675 (Title 38, § 5011)
Pub. L. 87-377	Oct. 4, 1961	75 Stat. 806 (Title 38, §§ 612, 1712 note)
Pub. L. 87-544	July 25, 1962	76 Stat. 208 (Title 38, § 3203)
Pub. L. 87-546	July 25, 1962	76 Stat. 216 (Title 38, § 1723)
Pub. L. 87-549	July 25, 1962	76 Stat. 219 (Title 38, § 742)
Pub. L. 87-556	July 27, 1962	76 Stat. 245 (Title 38, § 3203)
Pub. L. 87-557	July 27, 1962	76 Stat. 245 (Title 38, § 718)
Pub. L. 87-572	Aug. 6, 1962	76 Stat. 307 (Title 38, § 216)
Pub. L. 87-574	Aug. 6, 1962	76 Stat. 308 (Title 38, §§ 233, 618, 4103, 4105, 4108, 4114)
Pub. L. 87-583	Aug. 14, 1962	76 Stat. 381 (Title 38, §§ 610, 612)
Pub. L. 87-591	Aug. 16, 1962	76 Stat. 393 (Title 38, § 1502A)
Pub. L. 87-610	Aug. 28, 1962	76 Stat. 406 (Title 38, § 360)
Pub. L. 87-645	Sept. 7, 1962	76 Stat. 441 (Title 38, §§ 312, 314, 3203)
Pub. L. 87-666	Sept. 19, 1962	76 Stat. 553 (Title 38, §§ 4005-4007)
Pub. L. 87-671, §§ 1, 2	Sept. 19, 1962	76 Stat. 557 (Title 38, §§ 3301, 4009)
Pub. L. 87-674	Sept. 19, 1962	76 Stat. 558 (Title 38, §§ 101, 103, 3010)
Pub. L. 87-675, § 1(a), (c)	Sept. 19, 1962	76 Stat. 558 (Title 38, §§ 2001-2005)
Pub. L. 87-793, §§ 801-804	Oct. 11, 1962	76 Stat. 859-861 (Title 38, §§ 4103, 4107, 4108, 4111)
Pub. L. 87-815	Oct. 15, 1962	76 Stat. 926 (Title 38, §§ 101, 230, 235, 624, 1502, 1613, 1712)
Pub. L. 87-819	Oct. 15, 1962	76 Stat. 935 (Title 38, §§ 641, 1712)
Pub. L. 87-825	Oct. 15, 1962	76 Stat, 948 (Title 38, §§ 110, 351, 359, 3010, 3012, 3110)
Pub. L. 87-850, § 1(a)	Oct. 23, 1962	76 Stat. 1126 (Title 38, § 619)
Pub. L. 88-3	Apr. 2, 1963	77 Stat. 4 (Title 38, § 904)
Pub. L. 88-18	May 8, 1963	77 Stat. 15 (Title 38, § 4103)
Pub. L. 88-20, § 1	May 15, 1963	77 Stat. 17 (Title 38, § 314)
Pub. L. 88-21 §§ 1-4	May 15 1963	77 Stat. 17 (Title 38, §§ 411, 413, 414, 415)
Pub. L. 88-22 § 1	May 15, 1963	77 Stat. 18 (Title 38, § 314)
Pub. L. 88-40	June 13, 1963	77 Stat. 66 (Title 38, § 632)
Pub. L. 88-77 § 5(1), (2)	July 25, 1963	77 Stat. 95 (Title 38, §§ 560-562)
Pub. L. 88-126	Sept. 23, 1963	77 Stat. 158 (Title 38, §§ 1735-1737, 1771-1778)
Pub. L. 88-134 § 1	Oct. 5, 1963	77 Stat. 223 (Title 38, § 411)
Pub. L. 88-151 § 1	Oct. 17 1963	77 Stat. 271 (Title 38, § 1820)
Pub. L. 88-207	Dec. 17, 1963	77 Stat. 402 (Title 38, § 4110)
Pub. L. 88-274	Feb. 29, 1964	78 Stat. 147 (Title 38, § 1823)
Pub. L. 88-355	July 7, 1964	78 Stat. 272 (Title 38, § 715)
Pub. L. 88-359	July 7, 1964	78 Stat. 296 (Title 38, § 902)
Pub. L. 88-361 §§ 1-4, 6, 7	July 7, 1964	78 Stat. 297, 298 (Title 38, §§ 1643, 1701, 1711, 1712, 1741, 1762)
Pub. L. 88-364	July 7, 1964	78 Stat. 302 (Title 38, § 712)
Pub. L. 88-401	Aug. 4, 1964	78 Stat. 380 (Title 38, § 801)
Pub. L. 88-402	Aug. 4, 1964	78 Stat. 380 (Title 38, § 1811)
Pub. L. 88-426 title I, §§ 117(a), 118, title III, § 305(15).	Aug. 14, 1964	78 Stat. 409, 410, 424 (Title 38, §§ 210, 4103, 4107)
Pub. L. 88-430	Aug. 14, 1964	78 Stat. 438 (Title 38, § 612)
Pub. L. 88-433 § 1(a)-(c)	Aug. 14, 1964	78 Stat. 441 (Title 38, § 216)
Pub. L. 88-445 § 1(a), (b)	Aug. 19, 1964	78 Stat. 464 (Title 38, § 110)

Public Law and Section	Date	Statute
Pub. L. 88–448 title IV, § 402(a)(38).	Aug. 19, 1964	78 Stat. 495 (Title 38, § 4103 note)
Pub. L. 88–450	Aug. 19 1964	78 Stat. 500 (Title 38, §§ 101, 612, 617, 620, 641, 3203, 5001, 5031–5037)
Pub. L. 88–481	Aug. 22, 1964	78 Stat. 593 (Title 38, § 601)
Pub. L. 88–560 title VII, § 701(e).	Sept. 2, 1964	78 Stat. 800 (Title 38, §§ 1820, 1823)
Pub. L. 88–616	Oct. 2, 1964	78 Stat. 994 (Title 38, § 106
Pub. L. 88–651	Oct 13, 1964	78 Stat. 1078 (Title 38, § 560)
Pub. L. 88–664 §§ 1–9, 12(a), (b).	Oct. 13, 1964	78 Stat. 1094–1098 (Title 38, §§ 502, 503, 506, 521, 541, 542, 612, 704, 725, 3104)
Pub. L. 89–40	June 14, 1965	79 Stat. 130 (Title 38, § 725)
Pub. L. 89–50 § 2	June 24, 1965	79 Stat. 173 (Title 38, § 2104)
Pub. L. 89–88 § 1(a)	July 24, 1965	79 Stat. 264 (Title 38, § 112)
Pub. L. 89–117 title I, § 107(f), title II, § 217(b).	Aug. 10, 1965	79 Stat. 460, 473 (Title 38, §§ 1084, 1816)
Pub. L. 89–137	Aug. 26, 1965	79 Stat. 576 (Title 38, §§ 315, 1504)
Pub. L. 89–138, §§ 1, 2(2), (4).	Aug. 26, 1965	79 Stat. 577, 578 (Title 38, §§ 1502, 1503, 1511)
Pub. L. 89–214 § 1	Sept. 29, 1965	79 Stat. 880 (Title 38, §§ 211, 765–776)
Pub. L. 89–222, §§ 1, 2	Sept. 30, 1965	79 Stat. 896 (Title 38, §§ 1701, 1732, 1742)
Pub. L. 89–300, § 1(a), (c)	Oct. 28, 1965	79 Stat. 1110 (Title 38, §§ 235, 236)
Pub. L. 89–301 § 7	Oct. 29, 1965	79 Stat. 1117 (Title 38, § 4107)
Pub. L. 89–311 §§ 1(a), 2, 3(a), (b), (d), (e), 4–6(a), 7, 8.	Oct. 31, 1965	79 Stat. 1154–1157 (Title 38, §§ 101. 106, 314, 315, 360, 414, 560, 4116, 5001, 5033, 5034, 5035)
Pub. L. 89–349 § 1	Nov. 8, 1965	79 Stat. 1313 (Title 38, § 1701)
Pub. L. 89–358 §§ 2, 3(a)(1), (2), (5)–(9), (11), (b), 4(d)–(p), 5(a), (d)–(f)(1), 6(c), 7(a), (8), (9).	Mar. 3, 1966	80 Stat. 12–28 (Title 38, §§ 101, 102, 111, 211, 337, 610, 901, 903, 1651, 1652, 1661–1663, 1670–1676, 1681–1686, 1701, 1711, 1731, 1734–1736, 1761, 1762, 1770–1776, 1781–1790, 1803, 1811, 1818, 1822, 1826, 2001–2004, 3013)
Pub. L. 89–360	Mar. 7, 1966	80 Stat. 29 (Title 38, § 902)
Pub. L. 89–361, §§ 1(a), (b), 2.	Mar. 7, 1966	80 Stat. 29 (Title 38, §§ 210, 212)
Pub. L. 89–362 §§ 1, 2	Mar. 7, 1966	80 Stat. 30 (Title 38, § 3203)
Pub. L. 89–455	June 18, 1966	80 Stat. 208 (Title 38, § 111)
Pub. L. 89–466	June 22, 1966	80 Stat. 217 (Title 38, § 412)
Pub. L. 89–467 § 1(a)	June 22, 1966	80 Stat. 218 (Title 38, § 507
Pub. L. 89–504 title I, § 105.	July 18, 1966	80 Stat. 291 (Title 38, § 4107)
Pub. L. 89–506 § 5(b)	July 18, 1966	80 Stat. 307 (Title 38, § 4116)
Pub. L. 89–612	Sept. 30, 1966	80 Stat. 859 (Title 38, §§ 622, 632, 634)
Pub. L. 89–613, § 1	Sept. 30, 1966	80 Stat. 861 (Title 38, §§ 1765, 1766)
Pub. L. 89–641 § 2(a)	Oct. 11, 1966	80 Stat. 885 (Title 38, § 107)
Pub. L. 89–705	Nov. 2, 1966	80 Stat. 1099 (Title 38, § 216)
Pub. L. 89–730	Nov. 2, 1966	§§ 1–6 80 Stat. 1157 (Title 38, §§ 413, 414, 415, 776 note, 3012)
Pub. L. 89–769, § 3(c)	Nov. 6, 1966	80 Stat. 1316 (Title 38, § 1820)

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Pub. L. 89-785, title I, §§ 101-103(b), 104-107(3), 108, 109(a), 110, 111(c), 112(a), title II, §§ 201(a), 201(a), (b), 203, title III, §§ 301-303(b).	Nov. 7, 1966	80 Stat. 1368-1377 (Title 38, §§ 210, 213, 233, 610, 4101-4107, 4111-4114, 4117, 5004, 5012, 5051-5057)
Pub. L. 90-19, § 25	May 25, 1967	81 Stat. 28 (Title 38, §§ 1802-1804)
Pub. L. 90-77, title I, §§ 101-108(a), 109, 111, title II, §§ 201-202(h), 203, 204, title III, §§ 301-301(b), 303, 304(a), (c), (d), 305, 306 (a), (b)(2), 307(a), 308(a), title IV, §§ 401-403(b), 404.	Aug. 31, 1967	81 Stat. 178-190 (Title 38, §§ 101, 103, 302, 314, 404, 502, 503, 511, 512, 521, 531, 532, 534, 536, 541, 542, 544, 602, 612, 617, 901, 1652, 1661, 1662, 1673, 1677, 1678, 1682-1687, 1712, 1777-1779, 1784, 1802, 1803, 1811, 1901, 1905)
Pub. L. 90-206, title II, § 208.	Dec. 16, 1967	81 Stat. 631 (Title 38, § 4107)
Pub. L. 90-275, §§ 1, 2, 5	Mar. 28, 1968	82 Stat. 64-68 (Title 38, §§ 415, 521, 541, 3012)
Pub. L. 90-301, §§ 1, 2, 5(a).	May 7, 1968	82 Stat. 113, 116 (Title 38, §§ 1810, 1811, 1822, 1827)
Pub. L. 90-429	July 26, 1968	82 Stat. 446 (Title 38, § 620)
Pub. L. 90-431	July 26, 1968	82 Stat. 447 (Title 38, § 1504)
Pub. L. 90-432	July 26, 1968	82 Stat. 448 (Title 38, §§ 641, 5033)
Pub. L. 90-448, title VIII, § 807(h).	Aug. 1, 1968	82 Stat. 545 (Title 38, § 1820)
Pub. L. 90-493, §§ 1(a), 3(a), 4(b), 5.	Aug. 19, 1968	82 Stat. 808, 809 (Title 38, §§ 314, 356 note, 617, 1682 note)
Pub. L. 90-612, §§ 1-3	Oct. 21, 1968	82 Stat. 1202 (Title 38, §§ 601, 620)
Pub. L. 90-631, §§ 1(a)-(d)(1), 2(a)(1), (b)-(e), (g), 3-5.	Oct. 23, 1968	82 Stat. 1331-1335 (Title 38, §§ 1502, 1661, 1677, 1682, 1700, 1701, 1711, 1712, 1720, 1774, 1791)
Pub. L. 91-22	June 6, 1969	83 Stat. 32 (Title 38, §§ 801, 802, 1803, 1811)
Pub. L. 91-24, §§ 2(c), 3-13, 15, 16.	June 11, 1969	83 Stat. 33-35 (Title 38, §§ 101, 104, 213, 351, 401, 411, 560, 625, 631, 632, 904, 1503, 1701, 1711, 1765, 1789, 3203, 3301, 3401, 3402, 3503, 3504)
Pub. L. 91-32	June 23, 1969	83 Stat. 38 (Title 38, § 110)
Pub. L. 91-96, §§ 1-5, 7	Oct. 27, 1969	83 Stat. 144-146 (Title 38, §§ 322, 401-403, 411, 421)
Pub. L. 91-101	Oct. 30, 1969	83 Stat. 167 (Title 38, § 620)
Pub. L. 91-102	Oct. 30, 1969	83 Stat. 168 (Title 168, § 612)
Pub. L. 91-178, §§ 1, 2(a)	Dec. 30, 1969	83 Stat. 836 (Title 38, §§ 641, 644)
Pub. L. 91-219, title I, §§ 101-104, title II, §§ 201-203, 204(a)(1), (3), (4), 205-207(a), 208-213(1), 214(a).	Mar. 26, 1970	84 Stat. 76-85 (Title 38, §§ 240-244, 1504, 1652, 1661, 1673, 1677, 1681-1684, 1690-1693, 1695-1697, 1712, 1723, 1733, 1742, 1763, 1772, 1777, 1781)
Pub. L. 91-241	May 7, 1970	84 Stat. 203 (Title 38, § 361)
Pub. L. 91-262, §§ 1-3	May 21, 1970	84 Stat. 256 (Title 38, §§ 101, 413, 414)
Pub. L. 91-291, §§ 1-6, 8-13(a).	June 25, 1970	84 Stat. 326-332 (Title 38, §§ 417, 705, 707, 717, 745, 752, 765, 767-770, 774)
Pub. L. 91-338	July 16, 1970	84 Stat. 437 (Title 38, § 230)
Pub. L. 91-376, §§ 1-9	Aug. 12, 1970	84 Stat. 787-790 (Title 38, §§ 103, 211, 312, 314, 315, 3010, 3104, 3111)

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Pub. L. 91-496, §§ 1-4	Oct. 22, 1970	84 Stat. 1092 (Title 38, §§ 4107, 4114, 5053)
Pub. L. 91-500, §§ 1-4	Oct. 22, 1970	84 Stat. 1096 (Title 38, §§ 610, 612, 622)
Pub. L. 91-506, §§ 2-6	Oct. 23, 1970	84 Stat. 1108-1113 (Title 38, §§ 802, 1802-1804, 1810, 1811, 1818, 1819)
Pub. L. 91-584	Dec. 24, 1970	84 Stat. 1575 (Title 38, §§ 1652, 1681-1684, 1701, 1711, 1712, 1720, 1733, 1801, 1802, 3010)
Pub. L. 91-588, §§ 1-4, 6-8(a), 9(a)-(g).	Dec. 24, 1970	84 Stat. 1580-1585 (Title 38, §§ 101, 322, 411, 415, 503, 506, 521, 541, 542, 544, 612, 901)
Pub. L. 91-606, title II, § 233.	Dec. 31, 1970,	84 Stat. 1753 (Title 38, § 1820)
Pub. L. 91-621, § 6(a)	Dec. 31, 1970	84 Stat. 1864 (Title 38, §§ 101, 3105)
Pub. L. 91-666, § 2(a)	Jan. 11, 1971	84 Stat. 1998-2000 (Title 38, §§ 1901-1903)
Pub. L. 92-66	Aug. 5, 1971	85 Stat. 173 (Title 38, § 1811)
Pub. L. 92-69,	Aug. 6, 1971	85 Stat. 178 (Title 38, § 5055)
Pub. L. 92-95, § 1	Aug. 11, 1971	85 Stat. 320 (Title 38, § 806)
Pub. L. 92-128, § 2(c)	Sept. 25, 1971	85 Stat. 348 (Title 38, § 3505)
Pub. L. 92-169, § 2	Nov. 24, 1971	85 Stat. 489 (Title 38, § 402)
Pub. L. 92-185, § 1	Dec. 15, 1971	85 Stat. 642 (Title 38, § 765)
Pub. L. 92-188, §§ 1, 2, 4	Dec. 15, 1971	85 Stat. 645 (Title 38, §§ 703, 707, 741)
Pub. L. 92-193	Dec. 15, 1971	85 Stat. 648 (Title 38, § 704)
Pub. L. 92-197	Dec. 15, 1971	85 Stat. 660 (Title 38, §§ 321, 322, 341, 411, 413, 414, 415, 417, 724)
Pub. L. 92-198	Dec. 15, 1971	85 Stat. 663 (Title 38 §§ 101, 503, 521, 541, 542, 3012)
Pub. L. 92-310, title II, § 209.	June 6, 1972	86 Stat. 204 (Title 38, § 4204)
Pub. L. 92-315	June 20, 1972	86 Stat. 227 (Title 38, § 765d)
Pub. L. 92-328, title I, §§ 101(a), 102-105, 107, 108(a), (b), title II, §§ 201, 202(a), 204, 205, 206.	June 30, 1972	86 Stat. 393-397 (Title 38, §§ 210, 314, 315, 334, 335, 362, 536, 1817, 1820, 3021, 3102, 3202, 3203, 3503)
Pub. L. 92-341	July 10, 1972	86 Stat. 432 (Title 38, § 802)
Pub. L. 92-425, §6	Sept. 21, 1972	86 Stat. 713 (Title 38, §§ 415, 503)
Pub. L. 92-455, § 4	Oct. 2, 1972	86 Stat. 761 (Title 38, § 411)
Pub. L. 92-540, title I, §§ 101-103, title II, §§ 201-203, title III, §§ 301-316, title IV, §§ 401-412, title V, §§ 502(a), 503(a). 505.	Oct. 24, 1972	86 Stat. 1074-1099 (Title 38, §§ 101-102, 240, 241, 1502, 1504, 1507, 1661, 1671, 1673, 1677, 1681, 1682, 1684, 1685, 1691, 1692, 1696, 1697A, 1701, 1712, 1720, 1723-1736, 1742, 1770-1774, 1777, 1780-1791, 1792-1795, 2001-2008, 2011-2013, 3107, 3301)
Pub. L. 92-541, §§ 2(a), 3(a).	Oct. 24, 1972	86 Stat. 1100-1108 (Title 38, §§ 4121-4124, 5070-5074, 5081-5083, 5091-5093, 5096)
Pub. L. 93-43, §§ 2(a), 4(a), 5(a)(1), (2), 8.	June 18, 1973	87 Stat. 75-80, 88 (Title 38, §§ 218, 903, 906, 907, 1000-1007, 3505)
Pub. L. 93-75	July 26, 1973	87 Stat. 176 (Title 38, § 1803)

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Pub. L. 93-82, title I, §§ 101-103(b), 104-106(a), 107(a), 108, 109(a); title II, §§ 201-204(a), 205-208; title III, §§ 301, 302(1), (2), 303; title VI, §§ 401, 402(a), 402(c), 403.	Aug. 2, 1973	87 Stat. 179-184, 186-188, 190, 192-196 (Title 38, §§ 230, 234, 601, 610, 612-614, 620, 624, 626, 628, 631, 632, 641, 644, 651-654, 4101, 4103, 4107, 4108, 4109, 4112, 4114, 4116, 4117, 5001, 5007, 5012, 5033-5036, 5053)
Pub. L. 93-177, §§ 1-6(a)	Dec. 6, 1973	87 Stat. 694-696 (Title 38, §§ 415, 521, 541, 542, 3010, 3203)
Pub. L. 93-208	Dec. 28, 1973	87 Stat. 907 (Title 38, § 1780)
Pub. L. 93-288, title VI, § 602(*l*).	May 22, 1974	88 Stat. 164 (Title 38, § 1820)
Pub. L. 93-289, §§ 2-11(a)	May 24, 1974	88 Stat. 165-172 (Title 38, §§ 707, 723, 765, 767-771, 774, 777-779)
Pub. L. 93-295, title I, §§ 101, 102 title II, §§ 201-206(a), 206(c), 207, title III, §§ 301, 302, title IV, § 401.	May 31, 1974	88 Stat. 180-184 (Title 38, §§ 301 note, 314, 315, 322, 337, 342, 411, 413, 414, 1701, 3202)
Pub. L. 93-337, §§ 1, 2	July 10, 1974	88 Stat. 292 (Title 38, §§ 1662, 1712)
Pub. L. 93-508, title I, §§ 101-104, title II, §§ 201-214, title III, §§ 301-303, title IV, §§ 401-404.	Dec. 3, 1974	88 Stat. 1578-1600 (Title 38, §§ 219, 241-245, 1501, 1502, 1504, 1652, 1661, 1673, 1677, 1682, 1685, 1686, 1692, 1696, 1723, 1732, 1737, 1742, 1774, 1784, 1786, 1787, 1788, 1796, 1798, 1799, 2001-2003, 2005-2007, 3012, 2014, 2021-2026)
Pub. L. 93-527, §§ 2-5, 7, 9.	Dec. 21, 1974	88 Stat. 1702-1705 (Title 38, §§ 103, 415, 521, 541, 542, 544, 3010)
Pub. L. 93-538, §§ 2-5	Dec. 22, 1974	88 Stat. 1736, 1737 (Title 38, §§ 1901, 1902, 1903, 1904)
Pub. L. 93-569, §§ 1-5, 8, 9.	Dec. 31, 1974	88 Stat. 1863-1867 (Title 38, §§ 802, 1802, 1803, 1804, 1810, 1811, 1815, 1818, 1819)
Pub. L. 93-602, title II, §§ 202-205.	Jan. 2, 1975	88 Stat. 1958 (Title 38, §§ 1504, 1677, 1682, 1696, 1732, 1742, 1786, 1787)
Pub. L. 93-604, title VII, § 704.	Jan. 2, 1975	88 Stat. 1964 (Title 38, § 4207)
Pub. L. 94-71, title I, title II, §§ 201-203.	Aug. 5, 1975	89 Stat. 395-397 (Title 38, §§ 314, 315, 362, 411, 413, 414, 3010)
Pub. L. 94-123, §§ 2(b), 5	Oct. 22, 1975	89 Stat. 669, 675, (Title 38, §§ 4104-4108, 4118)
Pub. L. 94-169, title I, §§ 101-106, title II, §§ 201, 202.	Dec. 23, 1975	89 Stat. 1013-1021 (Title 38, §§ 101, 322, 415, 501-503, 505-507, 511, 512, 521, 523, 532-537, 541-544, 560-652)
Pub. L. 94-286, § 2	May 14, 1976	90 Stat. 518 (Title 38, § 2024)
Pub. L. 94-321, § 1(a)	June 29, 1976	90 Stat. 713 (Title 38, § 3301)
Pub. L. 94-324, §§ 2-7	June 30, 1976	90 Stat. 720-722 (Title 38, §§ 1801-1807, 1810, 1811, 1815-1820, 1823-1827)
Pub. L. 94-417, §§ 1(a), (b)	Sept. 21, 1976	90 Stat. 1277 (Title 38, §§ 101, 641)
Pub. L. 94-424, § 1	Sept. 28, 1976	90 Stat. 1332 (Title 38, §§ 5054, 5055)
Pub. L. 94-432, title II, §§ 201-205, title III, § 301, title IV, §§ 401-403.	Sept. 30, 1976	90 Stat. 1369-1372 (Title 38, §§ 102, 322, 415, 502, 521, 541, 542, 544, 3006)

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Pub. L. 94–433, title I, §§ 101(a), 102, title II, §§ 201–203, title III, §§ 301–304(a), title IV, §§ 401, 402, 404.	Sept. 30, 1976	90 Stat. 1374-1380 (Title 38, §§ 301, 302, 314, 315, 321, 322, 341, 351, 358, 360, 361, 362, 402, 404, 410-414, 416, 421, 422, 423, 806, 908, 1901, 3012)
Pub. L. 94–491	Oct. 14, 1976	90 Stat. 2363 (Title 38, § 109)
Pub. L. 94–502, title I, §§ 101–104, title II, §§ 201–203, 205–211, title III, §§ 301–309, title IV, §§ 402–404, title V, §§ 501–513, title VI, §§ 601(a), (b), 602–608, title VII, § 701.	Oct. 15, 1976	90 Stat. 2383-2405 (Title 38, §§ 1502-1505, 1507-1511, 1652, 1661-1663, 1670, 1671, 1673, 1674, 1676, 1681, 1682, 1685, 1691, 1692, 1696, 1697A, 1698, 1700, 1701, 1711, 1712, 1713, 1720, 1721, 1723, 1724, 1731, 1732, 1733, 1734, 1736, 1741, 1742, 1743, 1761, 1763)
Pub. L. 94–581, title I, §§ 101–111(a), (b), 114–116, title II, §§ 202–204, 205(a), (b), (d)–(g), 206–210.	Oct. 21, 1976	90 Stat. 2842-2866 (Title 38, §§ 101 note, 111, 601, 610-614, 616, 618-624, 626-628, 632, 633, 641, 642, 653, 903, 1903, 1904, 3301, 4101-4108, 4112-4114, 4116, 4117, 4118 note, 4121-4123, 4131-4134, 4202, 5001, 5002, 5004, 5005, 5007, 5011-5014, 5031, 5032, 5034-5036, 5053-5056, 5070, 5071, 5073, 5083, 5093, 5096, 5202, 5220, 5221)
Pub. L. 95–116, § 1(a)	Oct. 3, 1977	91 Stat. 1062 (Title 38, § 1901)
Pub. L. 95–117, titles I–IV	Oct. 3, 1977	91 Stat. 1063-1066 (Title 38, §§ 314, 315, 362, 411, 413, 414, 801, 1820, 3020)
Pub. L. 95–126, §§ 1(a), 3	Oct. 8, 1977	91 Stat. 1106, 1108 (Title 38, §§ 101, 3103)
Pub. L. 95–201, §§ 3(a), 4(a)(1), (2), (c), 5(a)(1), (2).	Nov. 23, 1977	91 Stat. 1429-1432 (Title 38, §§ 4105, 4107, 4114, 4118, 5001)
Pub. L. 95–202, §§ 1, title I, 101–105, title II, 201(a), (b), 202, 203, title III, 301–304(a), 305(a)(1), (2), (b)(1), 306, 308, 309, 310(b)(1).	Nov. 23, 1977	91 Stat. 1433-1449 (Title 38, §§ 101, 210, 246, 1504, 1662, 1663, 1673, 1674, 1677, 1682, 1682A, 1685, 1692, 1696, 1698, 1712, 1724, 1732, 1738, 1742, 1774, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1798, 2007, 2014)
Pub. L. 95–336, § 6(b)	Aug. 4, 1978	92 Stat. 453 (Title 38, § 246)
Pub. L. 95–476, title I, §§ 101–106(a), 107, title II, §§ 201, 202 (a), (b)(1), 203.	Oct. 18, 1978	92 Stat. 1497-1500, 1502-1505 (Title 38, §§ 802, 902, 903, 906, 1008, 1798, 1802, 1803, 1810, 1811, 1818, 1819)
Pub. L. 95–479, title I, §§ 101(a)–(d), 102, 103, title II, §§ 201–204, title III, §§ 301–304.	Oct. 18, 1978	92 Stat. 1560-1565 (Title 38, §§ 314, 315, 362, 410, 3101)
Pub. L. 95–520, §§ 2, 3, 5–7.	Oct. 26, 1978	92 Stat. 1820-1822 (Title 38, §§ 230, 601, 624, 632, 2012, 2014, 5082)
Pub. L. 95–588, title I, §§ 101–104(a), 105, 106(a), 107–109(a), 110(a), 111, 112(a)(1), title II, § 201, title III, §§ 301–305(a), 307.	Nov. 4, 1978	92 Stat. 2497-2508 (Title 38, §§ 101, 415, 501, 503, 506, 508, 512, 521, 522, 536, 541-544, 612, 3012, 3104, 3112, 3203)
Pub. L. 95–602, title I, § 122(f).	Nov. 6, 1978	92 Stat. 2987 (Title 38, § 1904)
Pub. L. 96–22, titles I–V	June 13, 1979	93 Stat. 47-66 (Title 38, §§ 101, 210, 230, 235, 601, 610, 611, 612, 612A, 620A, 634, 635, 661-664, 4107, 4108, 5001-5015, 5021-5024)

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Pub. L. 96-128, title I, §§ 101(a), 102-105, title II, §§ 201-203, title III, §§ 301, 302(a), 303(a), 304, title IV, § 401(a), title V, § 501.	Nov. 28, 1979	93 Stat. 982-986 (Title 38, §§ 314, 315, 362, 411, 413, 414, 611, 612A, 620A, 663, 718, 725, 726, 753, 761, 1828, 5005)
Pub. L. 96-151, title I, §§ 101-103, title II, §§ 201-205, title III, §§ 301-305.	Dec. 20, 1979	93 Stat. 1092-1096 (Title 38, §§ 111, 601, 612, 613, 614, 628, 641, 4104, 4105, 4106, 4112, 5010, 5033, 5053, 5054, 5055, 5070, 5082, 5083)
Pub. L. 96-330, title I, §§ 102(a)-(d), 103(a), 104(a), 105(a)-(c), 111, 112, 113(a), 114, 115, 116(a)(1), (b), title II, §§ 201(a)(1), 202, title III, §§ 302, 303, title IV, §§ 401(a), 402(a), 403(a), (b), 404, 405, 408.	Aug. 26, 1980	94 Stat. 1030-1053 (Title 38, §§ 622, 4101, 4103, 4107, 4108, 4109, 4112, 4114, 4118, 4119, 4141-4146, 5021, 5022, 5034, 5070, 5093)
Pub. L. 96-385, titles I-V, §§ 101(a), 102, 103, 201-203, 301, 401, 402, 501-504(a), 505(a), 508.	Oct. 7, 1980	94 Stat. 1528-1535, 1538 (Title 38, §§ 230, 314, 315, 362, 411, 413, 414, 801, 802, 804, 805, 906, 1803, 1810, 1811, 1819, 3104, 3113, 3203, 3305, 4107, 4109)
Pub. L. 96-465, title II, § 2206(g).	Oct. 17, 1980	94 Stat. 2163 (Title 38, § 235)
Pub. L. 96-466, title I, §§ 101(a), 102, 103, title II, title III, title IV, title V, §§ 501-504(A), 505, 506(a), 507-511, title VI, §§ 601, 602(a)-(c), 603-605(a)(1), (c), 606, title VII, § 701(a), (b)(1), title VIII, § 801(a)-(k)(2)(A), (1).	Oct. 17, 1980	94 Stat. 2171-2217 (Title 38, §§ 106 note, 220, 244, 415, 506, 1500-1521, 3114-3116, 1602, 1622, 1624, 1631, 1641, 1652, 1661, 1662, 1671, 1673, 1674, 1676, 1677, 1682, 1685, 1691, 1692, 1695-1698, 1701, 1712, 1720, 1721, 1723, 1724, 1731, 1732, 1740, 1742, 1761, 1772, 1774, 1775, 1780, 1781, 1784, 1785, 1786-1790, 1792, 1795, 1798, 2001, 2002, 2002A, 2003, 2003A, 2007, 2011-2014, 2024, 3102, 3301)
Pub. L. 97-15	June 17, 1981	95 Stat. 99 (Title 38, § 5073)
Pub. L. 97-35, title XX, §§ 2001-2005.	Aug. 13, 1981	95 Stat. 781, 782 (Title 38, §§ 612, 902, 903, 1631, 1641, 1662, 1673, 1677, 1681, 1682, 1686, 1737, 1780, 1786, 1798)
Pub. L. 97-37, §§ 2(a), 3, 4(a), 5(a)-(c).	Aug. 14, 1981	95 Stat. 935-937 (Title 38, §§ 101, 221, 312, 610, 612)
Pub. L. 97-66, title I, §§ 101(a), 102-104, title II, §§ 201-204, title II, §§ 301-303, title IV, §§ 401-403, title V, §§ 501-504, title VI, §§ 601(a)(1), (b), 602, 603, 604(a)(1), 605(a), 606.	Oct. 17, 1981	95 Stat. 1026-1037 (Title 38, §§ 210, 314, 315, 362, 411, 413, 414, 717, 752, 767, 769, 777, 802, 906, 1003, 1712, 1776, 1803, 1819, 1826, 1828, 1902, 1903, 3010, 3103A, 3203, 5010)
Pub. L. 97-72, title I, §§ 101, 102, 103(a), (b), 104(a)(1), (b), 105, 106(a)(1), 107(a)-(c)(1), 108, title II, §§ 201(a), 202(a), title IV, § 402(a).	Nov. 3, 1981	95 Stat. 1047-1054 (Title 38, §§ 601, 610, 612, 612A, 613, 624, 629, 631, 632, 1517, 1662, 1801, 1802, 1803, 1807, 1815, 1817, 1818, 1819, 1824, 1841-1851, 2014, 4109, 5010)
Pub. L. 97-174, §§ 3(a), (b)(1), 4(a), 5(a).	May 4, 1982	96 Stat. 70, 73-75 (Title 38, §§ 1786, 5011, 5011A)

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Pub. L. 97-251, §§ 2-9	Sept. 8, 1982	96 Stat. 711 (Title 38, §§ 601, 613, 620A, 643, 4107, 4142, 4143, 4144, 5033, 5054)
Pub. L. 97-253, title IV, §§ 401(a), 402(a), 403(a)(1), 404(a), (b), 405(a)-(g), 406(a)(1).	Sept. 8, 1982	96 Stat. 801-805 (Title 38, §§ 314, 315, 362, 411, 413, 414, 1829, 3011, 3012, 3023)
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Pub. L. 97-295, § 4	Oct. 12, 1982	96 Stat. 1304 (Title 38, §§ 101, 106, 107, 111, 230, 243, 246, 415-417, 422, 503, 602, 612, 616, 617, 620, 624, 704, 707, 712, 718, 725, 743, 744, 748, 760, 766, 768, 770, 774, 784, 802, 1003, 1642, 1652, 1662, 1673, 1682A, 1685, 1691, 1712, 1720, 1763, 1765, 1770, 1772-1774, 1780, 1781, 1783, 1784, 1786-1788, 1790, 1798, 1799, 1801-1804, 1811, 1818-1820, 1823, 1904, 2003, 2014, 2022, 2023, 3001, 3005, 3020, 3101, 3103, 3112, 3202, 3504, 3505, 4101, 4105, 4107-4109, 4114, 4118, 4134, 4202, 4207, 4208, 5022, 5035, 5036, 5053, 5056, 5070, 5073)
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